

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2010 CA 1890

MICHAEL BLANSON

VERSUS

JAMES LEBLANC, SECRETARY, DOC; TIMOTHY WILKINSON, WARDEN,
WNC; C. BONNETT, RECORD ANALYST, WNC, ET AL

Judgment rendered June 10, 2011.

*J.P.P.
J.E.K.
By
T.M.H.*

Appealed from the
19th Judicial District Court
in and for the Parish of East Baton Rouge, Louisiana
Trial Court No. 583,580
Honorable R. Michael Caldwell, Judge

MICHAEL BLANSON
WINNFIELD, LA

IN PROPER PERSON
PLAINTIFF-APPELLANT
MICHAEL BLANSON

JONATHAN R. VINING
BATON ROUGE, LA

ATTORNEY FOR
DEFENDANT-APPELLEE
JAMES M. LEBLANC

BEFORE: KUHN, PETTIGREW, AND HIGGINBOTHAM, JJ.

PETTIGREW, J.

In this case, petitioner, Michael Blanson, an inmate in the custody of the Department of Public Safety and Corrections ("DPSC"), sought review of Administrative Remedy Procedure ("ARP") Number WNC-2009-412, concerning what petitioner alleged was an error by DPSC in determining his eligibility for good time and in the calculation of his good time release date. Petitioner seeks credit for the period of time he was released from physical custody but on parole supervision. Petitioner further alleges he was in the legal custody of DPSC while under parole supervision and should also receive credit for previously earned good time.

Petitioner's request was reviewed and denied at the first and second steps of the ARP. In the First Step Response Form, petitioner was advised that when his parole was revoked, he "owed a total of eighteen (18) years, two (2) months and ten (10) days on [his] twenty (20) year sentence." Subsequently, in the Second Step Response Form, petitioner was further informed that his request for relief had been considered and denied:

The Good Time Option and Approval Form referenced in your complaint is not a contract. By signing this form, inmates are allowed to receive increased good time in lieu of earning incentive wages. It does not, however, prohibit supervision or in your case, keep you from serving the balance owed as of release upon returning to DOC physical custody as a parole violator.

Louisiana Revised Statute 15:574.9(E) states that upon returning to custody, the offender must serve the remainder of the original sentence as of release date. In your case, when paroled ... you were to remain on supervision eighteen years, two months, and ten days. This is the term you now must serve as a parole violator.

A commissioner at the 19th Judicial District Court reviewed the record and recommended that petitioner's request for judicial review be dismissed with prejudice. Citing to **Bancroft v. Louisiana Dept. of Corrections**, 93-1135 (La. App. 1 Cir. 4/8/94), 635 So.2d 738, the commissioner noted as follows:

[A]n inmate does not enter into a contract with the Department regarding good time and only exercises an option to earn good time credits in an effort to obtain an earlier release date. *Bancroft* also determined that a parolee was not entitled to credit for time spent on parole supervision. It should also be noted that the *Bancroft* decision also found that the terms of a release on parole supervision are governed by the laws in effect at

the time of release from physical custody. The administrative record evidences the petitioner was informed that at the time of his release from physical custody, that upon revocation of his release on parole, he would forfeit all good time previously earned. The petitioner has failed to show that the final administrative decision rendered in this matter should be overturned on judicial review.

Petitioner timely filed a traversal of that recommendation, reiterating his arguments to the court. On July 22, 2010, a judgment was signed by the trial court, adopting the written recommendation of the commissioner and dismissing petitioner's request for judicial review, at his costs, with prejudice. This appeal by petitioner followed.

After a thorough review of the record and relevant jurisprudence, we find no error of law or abuse of discretion by the trial court. The **Bancroft** decision is controlling precedent.¹ Accordingly, we affirm the trial court's judgment in accordance with Uniform Rules--Courts of Appeal, Rule 2-16.2A(5), (6), (7), and (8). All costs associated with this appeal are assessed against petitioner, Michael Blanson.

AFFIRMED.

¹ We note that La. R.S. 15:574.9(E) was amended by 2010 Acts No. 792, § 1 to provide as follows:

When the parole of a parolee has been revoked by the board for the violation of the conditions of parole, the parolee shall be returned to the physical custody of the Department of Public Safety and Corrections, corrections services, and serve the remainder of his sentence as of the date of his release on parole, **subject to consideration by the board of any commutation of the sentence, and any credit for time served for good behavior while on parole.** The parolee shall be given credit for time served prior to the revocation hearing whether such time is served in a local detention facility, state institution, or out-of-state institution pursuant to Code of Criminal Procedure Article 880. [Emphasis added.]

Prior to this amendment, and at the time petitioner's parole was revoked, Subsection E provided as follows:

When the parole of a parolee has been revoked by the board for the violation of the conditions of parole, the parolee shall be returned to the physical custody of the Department of Public Safety and Corrections, office of corrections services, and serve the remainder of his sentence as of the date of his release on parole, **subject to consideration by the board of any commutation of the sentence, and any diminution of sentence earned for good behavior while in the institution.** The parolee shall be given credit for time served prior to the revocation hearing whether such time is served in a local detention facility, state institution, or out-of-state institution. The parolee shall not receive credit for such time served prior to the revocation hearing where the revocation is based on the subsequent conviction of a crime, in which case the parolee will receive credit for time served for the subsequent conviction pursuant to Code of Criminal Procedure Article 880. [Emphasis added.]