

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2010 CA 1317

RANDY THOMAS

VERSUS

**CINDY HEBERT, RECORDS DEPARTMENT AT C. PAUL PHELPS
CORRECTIONAL CENTER AND JAMES LEBLANC, SECRETARY,
DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS**

Judgment Rendered: February 11, 2011

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**Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket Number 575,510**

The Honorable Timothy Kelley, Judge Presiding

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**Randy Thomas
DeQuincy, LA**

**Plaintiff/Appellant in Proper Person,
Randy Thomas**

**Debra A. Rutledge
Baton Rouge, LA**

**Counsel for Defendant/Appellee,
James LeBlanc**

BEFORE: WHIPPLE, McDONALD, AND McCLENDON, JJ.

McDonald, J. concurs.

WHIPPLE, J.

This is an appeal by plaintiff, Randy Thomas, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the DPSC), from a judgment of the Nineteenth Judicial District Court, dismissing his petition for judicial review of request for administrative remedy number PCC-2009-0011 filed with the DPSC pursuant to the Corrections Administrative Remedy Procedure (CARP), LSA-R.S. 15:1177, *et seq.*

PROCEDURAL HISTORY

On January 21, 2009, plaintiff filed a request for administrative remedy, which was numbered PCC-2009-0011, challenging his 5th offender classification for parole purposes pursuant to LSA-R.S. 15:574.4 and seeking money damages for time improperly held in physical custody. The record reveals, however, that a duplicate copy of this same request for administrative remedy was previously filed by plaintiff on April 22, 2008 and was assigned number PCC-2008-0131. Accordingly, plaintiff's later-filed request number PCC-2009-0011 was denied at the administrative level on the basis that plaintiff had "already submitted an ARP on the same subject matter" and that "[o]nly one ARP on the same complaint is acceptable per the rules of the Administrative Remedy Procedure."

On February 19, 2009, plaintiff filed a petition for judicial review in the district court, challenging the denial of the relief sought in request number PCC-2009-0011. A screening commissioner issued a preliminary screening report on May 5, 2009, in accordance with LSA-R.S. 15:1178 and 15:1188, wherein he noted that pursuant to LSA-R.S. 15:1177(C), damage claims cannot be raised in a request for judicial review and must be filed separately as original civil actions. Accordingly, the Commissioner recommended that plaintiff's request for money damages be stricken from the pending suit. The district court rendered a

judgment on June 26, 2009, striking plaintiff's request for monetary damages from his pleadings in accordance with the Commissioner's recommendation.

Thereafter, on March 24, 2010, the Commissioner issued a report recommending that the instant suit for judicial review of PCC-2009-0011 be dismissed on the basis that the administrative record establishes that the relief sought in this suit is a duplicate of a prior request for administrative relief that was accepted into the Administrative Remedy Procedure under claim number PCC-2008-0131. In recommending that the instant complaint should be rejected, the Commissioner noted that "the regulations of the Department found at Louisiana Administrative Code Title 22 Part 1 Section 325(F)(1)(a)(iii) require [that] an administrative remedy screening officer reject a duplicate request for administrative relief."

Plaintiff filed a traversal of the Commissioner's recommendation on April 14, 2010. After considering plaintiff's timely filed traversal, the district court agreed with the Commissioner's report and rendered judgment on April 20, 2010, maintaining the Department's decision in PCC-2009-0011. Plaintiff now appeals.

DISCUSSION

Louisiana Revised Statute 15:1177(A)(9) sets forth the appropriate standard of judicial review by the district court, which functions as an appellate court when reviewing the DPSC's administrative decision through CARP. Specifically, the court may reverse or modify the administrative decision only if substantial rights of the appellant have been prejudiced because the administrative decision of findings are: (1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the agency; (3) made upon unlawful procedure; (4) affected by other error of law; (5) arbitrary, capricious, or characterized by abuse of discretion; or (6) manifestly erroneous in view of the reliable, probative, and substantial evidence on the whole record. LSA-R.S.

15:1177(A)(9); Lightfoot v. Stalder, 2000-1120 (La. App. 1st Cir. 6/22/01), 808 So. 2d 710, 715-716, writ denied, 2001-2295 (La. 8/30/02), 823 So. 2d 957.

On review of the district court's judgment in a suit for judicial review under LSA-R.S. 15:1177, no deference is owed by the court of appeal to the factual findings or legal conclusions of the district court, just as no deference is owed by the Louisiana Supreme Court to factual findings or legal conclusions of the court of appeal. McCoy v. Stalder, 99-1747 (La. App. 1st Cir. 9/22/00), 770 So. 2d 447, 450-451.

Based on our review of the administrative record and pursuant to LSA-R.S. 15:1177(A)(9), we find no error in the district court's judgment dismissing the petition for judicial review. On review, we conclude that the DPSC's decision was neither arbitrary, capricious, manifestly erroneous, or in violation of plaintiff's constitutional or statutory rights, and, thus, the district court was correct in dismissing plaintiff's suit. Pursuant to the DPSC rules governing adult administrative remedy procedures, the ARP screening officer is specifically authorized to reject a request for administrative remedy where, as here, the complaint is a duplicate request. La. Admin. Code, Tit. 22, Part 1, § 325(F)(1)(a)(iii).

CONCLUSION

After thorough review of the record herein, we find no error of law or fact in the administrative decision of the DPSC. Moreover, we find no evidence that the DPSC was arbitrary or capricious in denying the relief requested by plaintiff, as the request was duplicative of the relief sought in request number PCC-2008-0131. See LSA-R.S. 15:1177(A)(9)(a), (d), (e) & (f). Thus, the April 20, 2010 judgment of the district court is affirmed. Costs of this appeal are assessed against plaintiff, Randy Thomas.

AFFIRMED.