

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2006 CA 2026

RONALD LEWIS

VERSUS

**DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS,
BOARD OF PAROLE**

**On Appeal from the 19th Judicial District Court
Parish of East Baton Rouge, Louisiana
Docket No. 528,260, Division "J"
Honorable Curtis A. Calloway, Judge Presiding**

**Ronald Lewis
Kinder, LA**

**Plaintiff-Appellant
In Proper Person**

**Wendell C. Woods
Louisiana Department of Justice
Baton Rouge, LA**

**Attorney for
Defendant-Appellee
Dept. of Public Safety & Corrections
and Board of Parole**

BEFORE: BAGNERIS, LOVE, AND LOMBARD, JJ.¹

Judgment rendered JUN - 8 2007

AFFIRMED

¹ The Honorable Dennis R. Bagneris, Sr., Judge, the Honorable Terri F. Love, Judge, and the Honorable Edward A. Lombard, Judge, all members of the Fourth Circuit Court of Appeal, are serving as judges *ad hoc* by special appointment of the Louisiana Supreme Court.

Bagneris, J.

CRB
Appellant, Ronald Lewis, appeals the judgment of the trial court, which ordered that the revocation decision rendered in this matter be affirmed and that Mr. Lewis's request for judicial review be dismissed, with prejudice. For the following reasons, we affirm.

EF
FACTS:

On January 13, 2005, Mr. Lewis filed a petition for judicial review challenging the revocation of his release on parole. Mr. Lewis alleges the following facts in his petition:

1.

On December 7, 1996, Petitioner was released from the Department of Public Safety and Corrections under parole supervision after serving twelve (12) years ten (10) months of a twenty five (25) year sentence stemming from Orleans Parish Criminal District Court, section "D" under case docket number 300537.

2.

On August 8, 2002, Petitioner was remanded back into physical custody by his Parole Officer for violation of a condition. Subsequently, thereafter, Petitioner's Parole Officer visited him and informed him that if he would admit to the conditional violation, she would recommend that he be placed in the Blue Walters Substance Abuse Treatment Program. Petitioner accepted this option and signed a document detailing that he would be placed in a Community Rehabilitation Center or a Substance Abuse Program not to exceed six (6) months, pursuant to the provisions of R.S. 15:574.7.B(2)(b).

3.

On or about September 23, 2002, Petitioner was placed in the Blue Walters Program in C.C.C. of Orleans Parish Prison System. On November 22, 2002, Petitioner graduated from the Blue Walters Program, but was not released back to the

supervision of his parole officer as were the other participants who had been placed in the program by their parole officer(s).

4.

On December 2, 2002, Petitioner was transferred to Hunt Correctional Center where a van picked him up and transported him to the LaFourche Parish Work-Release Program. On April 19, 2003, Petitioner was removed from the work-release program for failing a breathalyzer test for alcohol consumption. Petitioner had participated in the work release program for approximately four (4) months and seventeen (17) days. This added to the two (2) months and two (2) weeks Petitioner participated in the Blue Walters Treatment Program, thereby bringing it to a total amount of seven (7) months and some days.

On April 27, 2006, the trial court rendered judgment, which ordered that the revocation decision rendered be affirmed and that Mr. Lewis's request for judicial review be dismissed, with prejudice. Mr. Lewis now appeals this final judgment.

DISCUSSION:

On appeal, Mr. Lewis argues that the trial court erred when it found that the Board of Parole acted properly and within its authority under La. R.S. 15:574.7(B)(2)(b)² when the Board of Parole placed him in a substance

² 15:574.7. B. (1) If the chief probation and parole officer, upon recommendation by a parole officer, has reasonable cause to believe that a parolee has violated the conditions of parole, he shall notify the board, and shall cause the appropriate parole officer to submit the parolee's record to the board. After consideration of the record submitted, and after such further investigation as it may deem necessary, the board may order:

(2) Upon receiving a summary of the prerevocation proceeding, the board may order the following: (emphasis added)

(a) The parolee's return to the physical custody of the Department of Public Safety and Corrections, office of corrections services, to await a hearing to determine whether his parole should be revoked.

(b) As an alternative to revocation, that the parolee, as a condition of parole, be committed to a community rehabilitation center or a substance abuse treatment program operated by, or under contract with, the department, for a period of time not to exceed six months, without benefit of good time, provided that such commitment does not extend the period of parole beyond the full parole term. Upon written request of the department that the offender be removed for violations of the rules or regulations of the community rehabilitation center or substance abuse program, the board shall order that the parole be revoked, with credit for time served in the community rehabilitation center.

abuse program and a work release facility for a period exceeding a six month time period. We find no merit to this argument.

On August 27, 2002, the Board of Parole, voted to defer further revocation proceedings after Mr. Lewis violated a condition of his parole, and ordered, as a condition of parole, that Mr. Lewis “be placed in the Department of Public Safety and Corrections residential substance abuse facility followed by placement in a community residential work release facility for a period not to exceed six months.” Further correspondence from the Board of Parole stated that “[t]he six-month count begins when you are placed in the work release facility” and that “[i]f you successfully complete work release, you will be restored to active supervision on June 2, 2003.” Mr. Lewis agrees that he was placed in the community work-release program on December 2, 2002 and that he was removed from the community work-release program on April 19, 2003, after failing a breathalyzer test for alcohol consumption. Consequently, Mr. Lewis was removed from the work release program before successfully completing the six-month work release program.

Although Mr. Lewis argues that the Board of Parole had no authority pursuant to the R.S. 15:574.7(B)(2)(b) to place him in a treatment rehabilitation center along with work release program, we do not agree. La. R.S. 15:574.11 provides:

A. Parole is an administrative device for the rehabilitation of prisoners under supervised freedom from actual restraint, and the granting, conditions, or revocation of parole rest in the discretion of the Board of Parole. No prisoner or parolee shall have a right of appeal from a decision of the board regarding release or deferment of release on parole, the imposition or modification of authorized conditions of parole, the termination or restoration of parole

supervision or discharge from parole before the end of the parole period, or the revocation or reconsideration of revocation of parole, except for the denial of a revocation hearing under R.S. 15:574.9. (Emphasis added)

Further, La. R.S. 15:574.4 provides that “[t]he Board of Parole may make rules for the conduct of persons heretofore or hereafter granted parole.

When a prisoner is released on parole, the board shall require as a condition of his parole that he refrain from engaging in criminal conduct.” We find that when Mr. Lewis failed to comply with his conditions of parole in August 2002, the Board of Parole was acting within its discretion when it ordered him to be placed in a “residential substance abuse facility followed by placement in a community residential work release facility for a period not to exceed six months.” When Mr. Lewis again violated the conditions of parole on April 19, 2003, the Board of Parole, after a hearing, rendered its decision to revoke his parole. After a review of the record, we agree with the trial court that Mr. Lewis failed to show that any of his conditions of parole were invalid or that the Board of Parole violated his due process rights.

Accordingly, we affirm the judgment of the trial court, which affirmed the revocation decision and dismissed Mr. Lewis’s request for judicial review.

AFFIRMED