

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2011 CA 0180

RONNIE ADOLPHUS NOEL

VERSUS

JAMES M. LEBLANC, SEC. OF STATE,
WARDEN HOWARD PRINCE

JEK
6/1/11

Judgment Rendered: NOV - 9 2011

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Suit Number 571,957

Honorable Todd Hernandez, Judge

Noel A. Prince
St. Gabriel, LA

William L. Kline
Baton Rouge, LA

In Proper Person
Plaintiff-Appellant

Counsel for
Defendants-Appellees
James M. LeBlanc,
Secretary of Louisiana
Department of Public
Safety and Corrections,
and Warden Howard
Prince, Elayn Hunt
Correctional Center

BEFORE: WHIPPLE, KUHN, AND GUIDRY, JJ.

GUIDRY, J.

In this appeal of a judgment rendered on judicial review of an inmate's administrative remedy procedure, the appellant, Ronnie Adolphus Noel, asserts that the district court erred in dismissing his petition as moot and further declaring that it lacked jurisdiction to consider any further claims beyond those declared moot. Finding no error in the district court's judgment, we affirm.

FACTS AND PROCEDURAL HISTORY

In 2007, the appellant committed acts of burglary in two separate parishes. He was first arrested and charged with two counts of simple burglary in St. Tammany Parish on February 26, 2007, but only remained in custody until March 1, 2007, at which time he was released on bail. Then, on April 10, 2007, appellant was arrested in Lafourche Parish and charged with one count of simple burglary and one count of theft by using a credit card. Although the appellant had prior pending charges in St. Tammany Parish, he was first adjudicated on the charges pending in Lafourche Parish. Pursuant to a November 2, 2007 adjudication, appellant was sentenced to one year of imprisonment at hard labor on each count of the Lafourche Parish charges, to run concurrently with credit for time served.

On being released on good time parole for his Lafourche Parish sentences, the appellant was transferred to St. Tammany Parish for adjudication on the pending charges of simple burglary in that Parish. On February 11, 2008, the court in St. Tammany Parish sentenced the appellant to serve ten years at hard labor on each count of simple burglary. The court further ordered "that both counts run concurrent with each other and with the time served in Lafourche Parish and the [appellant] is given credit for time served." Appellant was then transferred to the Department of Public Safety and Corrections (DPSC) to begin serving the St. Tammany Parish sentences.

In June 2008, appellant received a copy of his master prison record, which showed a projected release date of January 7, 2012. Concluding that said release date was not inclusive of credit for time he had served in Lafourche Parish, the appellant filed a request for an administrative remedy procedure (ARP) on June 13, 2008. In that ARP, appellant alleged that "jail credits for April 10, 2007 through June 02, 2007 were wrongfully omitted, even though the sentencing court order[ed] concurrent sentences with Lafourche Parish." As a remedy, the appellant requested "[a]ward me the 56 days credit as ordered by Court." Relief was denied at both the institutional and departmental level on the ARP.

Having exhausted his administrative remedies, appellant filed a petition for judicial review with the Nineteenth Judicial District Court on October 23, 2008. After screening the petition and finding that the appellant had asserted a claim subject to "judicial appellate review" in accordance with La. R.S. 15:1171-1179, the commissioner¹ assigned by the district court to hear the matter ordered service of the petition on the DPSC. Following service, the DPSC answered the petition and denied that the appellant was entitled to any further jail credits toward his sentence. The DPSC also acknowledged that the appellant had exhausted available administrative remedies and filed the administrative record with the district court.

A hearing before the commissioner was held on March 2, 2010, following which the commissioner recommended that "this matter be dismissed with prejudice as moot, based on the finding that the relief sought in this matter has been obtained." The district court signed a judgment in accordance with the commissioner's recommendation on May 10, 2010. It is from this judgment that the appellant appeals.

¹ The office of commissioner of the Nineteenth Judicial District Court was created by La. R.S. 13:711 to hear and recommend disposition of criminal and civil proceedings arising out of the incarceration of state prisoners. See La. R.S. 13:713(A). The commissioner's written findings and recommendations are submitted to a district court judge, who may accept, reject, or modify them. La. R.S. 13:713(C)(5).

DISCUSSION

While this matter was pending on judicial review, the DPSC credited the appellant with the days he spent in jail in Lafourche Parish, and his master prison record was amended to show a release date of November 11, 2011. Nevertheless, the appellant then filed a pleading with the district court asserting that in addition to being credited with the days requested, he should have also received additional good time for the days credited. At the hearing on judicial review, the DPSC objected to the appellant's attempt to assert the claim for good time, observing that the claim for good time was beyond the scope of the administrative proceedings and that it had no notice of the additional claim. The commissioner agreed, and since the judicial review was limited to the issue of whether the appellant was entitled to receive a credit on his current sentence for the jail time he served in Lafourche Parish, the commissioner declared the issue on review to be rendered moot in light of the appellant having received said credit.

The Corrections Administrative Remedy Procedure (CARP) Act provides that on judicial review of an ARP, "[t]he review shall be limited to the issues presented in the petition for review and the administrative remedy request filed at the agency level." La. R.S. 15:1177(A)(5); see also McDowell v. Taylor, 99-1587, p. 5 (La. App. 1st Cir. 6/23/00), 762 So. 2d 1149, 1151-52. Although the appellant asserts that he generally sought a proper calculation of his jail credits from Lafourche Parish, which would encompass the claim for good time, as stated earlier in this opinion, his ARP was not so generally or broadly worded. Instead, appellant specifically requested that he be awarded "the 56 days credit as ordered by Court." In both the administrative proceedings and in his petition for judicial review, the appellant specifically requested to receive jail credits for the time served in Lafourche Parish without any mention of any additional credit for good time. Consequently, we find no error in the judgment on appeal.

CONCLUSION

Therefore, considering the records from the proceedings at the administrative and district court levels in the record before us, the appellant was granted all the relief requested in the ARP that is the subject of this appeal. Accordingly, we find no error in the district court's dismissal of the appellant's petition for judicial review as moot. Thus, we affirm the May 10, 2010 judgment of the district court. All costs of this appeal are cast to the appellant, Ronnie Adolphus Noel.

AFFIRMED.