

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

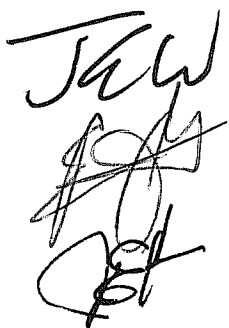
NUMBER 2006 CA 1793

DAVID POYDRAS

VERSUS

BURL CAIN

Judgment Rendered: June 8, 2007



Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Trial Court Number 538,696

Honorable William A. Morvant, Judge

David Poydras
Angola, LA

In Proper Person
Plaintiff – Appellant

William Kline
Baton Rouge, LA

Attorney for
Defendant – Appellee
Burl Cain

BEFORE: KUHN, GAIDRY, AND WELCH, JJ.

WELCH, J.

The plaintiff/appellant, David Poydras, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (“the Department”) and confined to the Louisiana State Penitentiary in Angola, Louisiana, appeals a judgment of the district court dismissing his petition for judicial review of Disciplinary Board Appeal Number LSP-2005-16252-W and assessing a “strike” against him in accordance with La. R.S. 15:1184-1188. We affirm the judgment in accordance with Uniform Court of Appeal Rules 2-16.2(A)(2), (4), and (5).

On October 11, 2005, the plaintiff was issued a disciplinary report for violating “Rule #21, Aggravated Sex Offense.” After a hearing before the Disciplinary Board on October 13, 2005, the plaintiff was found guilty of violating the rule and was sentenced to thirty days “cell confinement and a quarters change to Camp J Extended Lockdown.” The plaintiff contends that the Disciplinary Board erred by denying him the right to a mental health evaluation prior to the hearing,¹ and therefore, commenced these proceedings seeking either the dismissal of the October 11, 2005 disciplinary report or a second disciplinary hearing preceded by a mental health evaluation.

Pursuant to the screening requirements set forth in La. R.S. 15:1178, the matter was submitted to the commissioner for judicial screening prior to service on the defendant. On February 7, 2006, the commissioner issued a recommendation, noting that La. R.S. 15:1177(A)(9) only authorizes the district court to intervene in the Department’s decision if the plaintiff’s “substantial rights” have been violated (or prejudiced), and since the penalty at issue involved neither a forfeiture of good

¹ According to Burl Cain, the Warden of the Louisiana State Penitentiary, “Penitentiary Directive #13.084 requires a Mental Health evaluation of certain inmates prior to disciplinary hearings.” David Poydras is not an inmate “identified as requiring such evaluation prior to hearings.”

time nor an atypical deprivation of a “substantial right” of the plaintiff,² recommended that the plaintiff’s action be dismissed for failure to raise a substantial right violation³ and that the plaintiff be assessed a “strike.” See La. R.S. 15:1187.

After considering the entire record of the proceedings, on March 10, 2006, the district court adopted the commissioner’s recommendation and rendered judgment dismissing the petition based upon the plaintiff’s failure to raise a substantial right violation and imposing the recommended strike against the plaintiff. After a thorough review of the entire record of these proceedings, we find no error in the judgment of the district court and affirm the district court’s judgment in accordance with Uniform Court of Appeal Rules 2-16.2(A)(2), (4), and (5).

All costs of this appeal are assessed to the plaintiff/appellant, David Poydras.

AFFIRMED.

² See Sandin v. Conner, 515 U.S. 472, 486-87, 115 S.Ct. 2293, 2301-02, 132 L.Ed.2d 418 (1995) (a prisoner’s discipline in segregated confinement does not present atypical deprivation of a liberty interest and does not affect the duration of the inmate’s sentence).

³ The commissioner reasoned that in cases such as this, where the potential punishment only affects a custody classification or a minor sanction and not the prisoner’s eventual release, due process merely requires that the prisoner be allowed to give his version of the incident. Since the pleading filed by the plaintiff reflected that the plaintiff was afforded a hearing on the disciplinary report issued to him, and failed to allege that the penalty imposed by the Disciplinary Board constituted an atypical deprivation of a substantial right, the penalty imposed was not subject to review by the district court.