

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT


NO. 2007 CA 0040

JACK LINCOLN

VERSUS

LOUISIANA PAROLE BOARD, DEPARTMENT OF CORRECTIONS

Judgment rendered November 2, 2007.

J.L.P.


Appealed from the
19th Judicial District Court
in and for the Parish of East Baton Rouge, Louisiana
Trial Court No. 507,875
Honorable Kay Bates, Judge

JACK LINCOLN
JACKSON, LA

WILLIAM KLINE
BATON ROUGE, LA

PLAINTIFF-APPELLANT
IN PROPER PERSON

ATTORNEY FOR
DEFENDANT-APPELLEE
LOUISIANA DEPARTMENT OF
CORRECTIONS

BEFORE: CARTER, C.J., PETTIGREW, AND WELCH, JJ.

Welch Jr. concurs without reasons.

PETTIGREW, J.

In this case, petitioner, an inmate in the custody of the Department of Public Safety and Corrections, filed suit challenging his parole revocation by the Louisiana State Parole Board. Following a *de novo* review of the record herein, including the traversal by petitioner and the Commissioner's Report, the trial court maintained the decision of the Parole Board, dismissing petitioner's suit with prejudice.¹ This appeal followed. After a thorough review of the record and relevant jurisprudence, we find the cases of **Morrissey v. Brewer**, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972) and **Madison v. Ward**, 2000-2842 (La. App. 1 Cir. 7/3/02), 825 So.2d 1245, to be controlling. There can be no appeal of decisions of the Parole Board unless the procedural due process protections specifically afforded by the hearing provisions of La. R.S. 15:574.9 are violated.² **Madison**, 2000-2842 at 5 n.7, 825 So.2d at 1250 n.7. Petitioner alleges no such violations. Thus, the trial court's judgment was legally correct. 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, Jack Lincoln.

AFFIRMED.

¹ We note, as did the commissioner, that this is the second time petitioner has attempted to challenge his parole revocation. In 2003, he filed an identical suit, which was also dismissed by the trial court in a judgment rendered on July 8, 2003.

² Louisiana Revised Statutes 15:574.9 provides, in pertinent part, as follows:

A. When a parolee has been returned to the physical custody of the Department of Public Safety and Corrections, office of corrections services, the board shall hold a hearing to determine whether his parole should be revoked, unless said hearing is expressly waived in writing by the parolee. A waiver shall constitute an admission of the findings of the prerevocation proceeding and result in immediate revocation. If the revocation hearing is not waived, the parolee shall be permitted to consult with and be advised and represented by his own legal counsel or legal counsel appointed under the provisions of R.S. 15:149. At the hearing the parolee may admit, deny, or explain the violation charged, and he may present proof, including affidavits and other evidence, in support of his contentions. Upon request of the parolee, the parole board may postpone the rendering of its decision for a specified reasonable time pending receipt of further information necessary to a final determination.

B. (1) The board may order revocation of parole upon a determination that:

(a) The parolee has failed, without a satisfactory excuse, to comply with a condition of his parole; and

(b) The violation of condition involves the commission of another felony, or misconduct including a substantial risk that the parolee will commit another felony, or misconduct indicating that the parolee is unwilling to comply with proper conditions of parole.