

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NUMBER 2007 CA 0700**

**ALVIN ROCHELLE, JR.**

**VERSUS**

**LOUISIANA DEPARTMENT OF PUBLIC SAFETY &  
CORRECTIONS, RICHARD STALDER, SECRETARY**

**Judgment Rendered: December 21, 2007**

**Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge, Louisiana  
Docket Number 540,621**

**Honorable Timothy E. Kelley, Judge Presiding**

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**Alvin Rochelle, Jr.  
St. Gabriel, LA**

**Plaintiff/Appellant, pro se**

**William L. Kline  
Baton Rouge, LA**

**Counsel for Defendant/Appellee,  
Richard Stalder, Secretary,  
Louisiana Department of Public  
Safety & Corrections**

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**BEFORE: WHIPPLE, GUIDRY AND HUGHES, JJ.**

*WRN*  
*JK*

**WHIPPLE, J.**

This is an appeal by Alvin Rochelle, Jr., 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 an adverse decision from the DPSC and denying his request for an administrative remedy filed pursuant to the Corrections Administrative Remedy Procedure, LSA-R.S. 15:1171, et seq. For the following reasons, we affirm.

**FACTS AND PROCEDURAL HISTORY**

On May 19, 1983, Rochelle was sentenced in the Sixteenth Judicial District Court to a term of thirty-five years in the custody of the DPSC. Thereafter, on February 8, 2001, Rochelle was released from custody on diminution of sentence (“good time”) as if on parole. Approximately three and one-half years later, on July 29, 2004, Rochelle was recommitted to the custody of the DPSC for violating the conditions of his 2001 release, to serve out the remainder of his sentence, which at the time of his release consisted of seventeen years and twenty-nine days. Accordingly, Rochelle’s full term release date was recalculated as May 25, 2021.

Objecting to the modification and calculation of his release date as reported on his master prison record, Rochelle filed a request for an administrative remedy with the DPSC. Specifically, Rochelle contested the DPSC’s computations, contending that his good time credits earned prior to his early release had not been subtracted from his total sentence. He also averred that if his good time credits and time actually served had been properly subtracted from his total sentence, he would have only owed 385 days of parole supervision. Thus, he contended, the parole supervision should have ended on March 2, 2002. Accordingly, Rochelle averred that

his sentence was completed as of March 2, 2002, and that he was entitled to immediate release from custody and monetary damages.

After Rochelle's request for relief was denied at the second administrative level, he then filed a petition for judicial review in the district court. In his petition, Rochelle again contended that the DPSC had incorrectly calculated his sentence by failing to add his good time credits to the time he had actually served and again sought immediate release and monetary damages.

In his recommendation, the commissioner noted that a request for monetary damages is not properly raised in a request for judicial review, citing LSA-R.S. 15:1177(C), and, thus, should be denied. The commissioner further found that Rochelle had failed to show that the DPSC had improperly applied any good time credits in this matter, noting that good time credits earned by an inmate are applied to calculate a projected good time release date, but do not alter the full term date of any sentence. Thus, the commissioner concluded, Rochelle had failed to show that he was entitled to any relief. In accordance with the commissioner's recommendation, the district court rendered judgment, dismissing Rochelle's petition for judicial review with prejudice.

From this judgment, Rochelle appeals.

### **DISCUSSION**

While not specifically listing any assignments of error, Rochelle contends on appeal that the DPSC miscalculated his sentence by failing to subtract his good time credits earned prior to his release from his full sentence and that a proper calculation of his sentence controverts the DPSC's alleged balance of seventeen years and twenty-nine days. Rochelle further contends that he has a liberty interest and a property interest in the

good time credits he earned, because they were earned not only for good behavior, but also as compensation. Thus, he contends that his release in 2001 “as if on parole” constituted an unreasonable use of the legislature’s police powers and was arbitrary and capricious, constituting a substantive due process violation. Rochelle also argues that the “unlawful” forfeiture of his good time credits was without benefit of specific due process procedures. Accordingly, Rochelle asks this court to grant him immediate release.<sup>1</sup>

Regarding Rochelle’s argument that his sentence was miscalculated, it is well settled that a person released on diminution of sentence as if on parole is not entitled to restoration of good time earned or accumulated prior to his release. Manuel v. Stalder, 2004-1920 (La. App. 1<sup>st</sup> Cir. 12/22/05), 928 So. 2d 24, 26. Specifically, good time credits do not reduce the length of the original sentence. Frederick v. Ieyoub, 99-0616 (La. App. 1<sup>st</sup> Cir. 5/12/00), 762 So. 2d 144, 149, writ denied, 2000-1811 (La. 4/12/01), 789 So. 2d 581; LSA-R.S. 15:571.5. Louisiana Revised Statute 15:571.5, which governs revocation of “parole upon diminution of sentence,” provides that when an inmate released on parole due to diminution of sentence is reincarcerated for violating the terms of parole, the inmate “shall be recommitted to the department for the **remainder of the original full term.**” LSA-R.S. 15:571.5(B) & (C) (emphasis added). Accordingly, we find no merit to this argument.

Moreover, with regard to Rochelle’s due process arguments, we note that this court has previously upheld the constitutionality and applicability of

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<sup>1</sup>We note that Rochelle has not raised the issue of monetary damages in this appeal.

LSA-R.S. 15:571.5 under similar challenges.<sup>2</sup> See Ferrington v. Louisiana Board of Parole, 2003-2093 (La. App. 1<sup>st</sup> Cir. 6/25/04), 886 So. 2d 455, 459, writ denied, 2004-2555 (La. 6/24/05), 904 So. 2d 741, Frederick, 762 So. 2d at 147-148, and Howard v. Louisiana Board of Probation and Parole, 589 So. 2d 534, 536 (La. App. 1<sup>st</sup> Cir.), writ denied, 590 So. 2d 87 (La. 1991). These arguments also lack merit.

### CONCLUSION

Based upon our review of the administrative record and pursuant to LSA-R.S. 15:1177(A)(9), we find no error of law or fact and no violation of Rochelle's constitutional rights in the administrative decision of the DPSC. Further, we are unable to find that the DPSC was arbitrary or capricious in denying Rochelle the requested relief. See LSA-R.S. 15:1177(A)(9)(a), (d), (e) & (f). Thus, in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.1(B), the judgment of the district court dismissing Rochelle's petition for judicial review is affirmed. Costs of this appeal are assessed against plaintiff, Alvin Rochelle, Jr.

**AFFIRMED.**

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<sup>2</sup>To the extent that Rochelle argues that he was denied the benefit of specific procedures set forth in LSA-R.S. 15:571.4, we note that LSA-R.S. 15:571.4 is applicable to situations where a revocation of **parole** has occurred. In contrast, LSA-R.S.15:571.5 applies to situations, such as Rochelle's, where an early release **because of diminution of sentence** has been revoked. Howard v. Louisiana Board of Probation and Parole, 589 So. 2d 534, 535 (La. App. 1<sup>st</sup> Cir.), writ denied, 590 So. 2d 87 (La. 1991). Thus, LSA-R.S. 15:571.4 does not apply herein.