

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2008 CA 0517

RICHARD MAHOGANY, JR.

VERSUS

RICHARD STALDER, JIM ROGERS, LYNN McCLOUD

Judgment Rendered: SEP 23 2008

**Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Case No. 544,727**

The Honorable Timothy E. Kelley, Judge Presiding


**Richard Mahogany, Jr.
St. Gabriel, Louisiana**

**Plaintiff/Appellant
In Proper Person**

**Debra A. Rutledge
Baton Rouge, Louisiana**

**Counsel for Defendant/Appellee
Richard Stalder**

BEFORE: KUHN, GUIDRY, AND GAIDRY, JJ.



GAIDRY, J.

SUMMARY DISPOSITION

The plaintiff-appellant, Richard Mahogany, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the Department), filed a petition for judicial review of a final agency decision under the Corrections Administrative Remedy Procedure Act, La. R.S. 15:1171, *et seq.* The defendants excepted to the petition on the grounds that it was untimely under La. R.S. 15:1177, having been filed well over thirty days after his receipt of notice of the final agency decision. The trial court's Commissioner issued a comprehensive report detailing the administrative history of the request for administrative remedies, its underlying facts, its disposition, the applicable legal issues, and his findings and recommendation that the exception be sustained.¹ Following its *de novo* review of the record, the trial court adopted the Commissioner's report as its reasons for judgment. Mr. Mahogany appeals the judgment of the trial court adopting the Commissioner's report and dismissing his petition with prejudice.

Mr. Mahogany had previously sought judicial review of this disciplinary appeal and a separate disciplinary appeal in one action for review, in contravention of La. R.S. 15:1177, as interpreted in *Lightfoot v. Stalder*, 97-2626 (La. App. 1st Cir. 12/28/98), 727 So.2d 553. The Commissioner issued an order instructing Mr. Mahogany to choose which of the two disciplinary appeals he wished to pursue, and he advised the trial court that he chose the other disciplinary appeal. Mr. Mahogany claims that the Commissioner's order granted him additional time within which to seek

¹ The duties of the Commissioners of the Nineteenth Judicial District Court include hearing and recommending the disposition of criminal and civil proceedings arising out of the incarceration of state prisoners. La. R.S. 13:711 and 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).

separate judicial review of this disciplinary appeal. It did not. Additionally, the time limit for filing a petition for judicial review under La. R.S. 15:1177 is preemptive in nature, and thus may not be interrupted or suspended. *Carter v. Lynn*, 93-1583 (La. App. 1st Cir. 5/20/94), 637 So.2d 690.

After reviewing the record, we conclude that Mr. Mahogany is not entitled to relief. Finding the Commissioner's report and the trial court's judgment adequately explain our decision, we affirm the judgment.

DECREE

We accordingly affirm the judgment of the trial court through this summary opinion, in accordance with Rules 2-16.2(A)(2), (5), (6), and (8) of the Uniform Rules of the Louisiana Courts of Appeal. All costs of this appeal are assessed to the plaintiff, Richard Mahogany, Jr.

AFFIRMED.