

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 2076

DERRICK DUNCAN

VERSUS

JAMES LEBLANC, SECRETARY
DEPARTMENT OF CORRECTION & RISK REVIEW PANEL

Judgment Rendered: May 7, 2010

APPEALED FROM THE NINETEENTH JUDICIAL DISTRICT COURT
IN AND FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA
DOCKET NUMBER 565,059, DIVISION E, SECTION "23"

THE HONORABLE WILLIAM A. MORVANT, JUDGE

Derrick Duncan
Angola, Louisiana

In Proper Person
Plaintiff/Appellant

William Kline
Baton Rouge, Louisiana

Attorney for Defendant/Appellee
Louisiana Department of Public
Safety and Corrections

BEFORE: PARRO, KUHN, AND McDONALD, JJ.

McDONALD, J.

This is an appeal of a judgment from the Nineteenth Judicial District Court, dismissing the plaintiff's petition with prejudice, at his cost. Plaintiff filed a petition for writ of mandamus alleging violations of the law and United States Constitution in connection with the Department of Public Safety and Corrections' handling of his application for a hearing before the Louisiana Risk Review Panel. A Commissioner's Report was issued, recommending dismissal based on the exception of no cause of action, which was raised by the court on its own motion. After careful *de novo* review of the record by the district court judge, judgment was rendered on August 4, 2009, dismissing the matter and adopting as reasons the Commissioner's Report.

The propriety of a writ of mandamus issuing based on the violation of La. R.S. 15:308 and La. R.S. 15:574.22 has previously been considered by this court and we found that it is not legally permissible. See *Weaver v. LeBlanc*, 09-0244 (La. App. 1st Cir. 9/14/09), 22 So.3d 1014. Also, the supreme court has examined the statutes at issue and dictated the respective positions and responsibilities of the executive and judicial branches of government. See *State v. Dick*, 06-2223, 06-2226 (La. 1/26/07), 951 So.2d 124.

After review of the law and the record in this matter, we find no error in the action of the district court. Therefore, the judgment is affirmed, and this opinion is issued in compliance with Louisiana Uniform Rules, Courts of Appeal, Rule 2-16.1.B. Costs are assessed to Derrick Duncan.

AFFIRMED.