

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2009 CA 2093

ROBERT KEVIN McCARTNEY

VERSUS

**HELEN WASHINGTON, JACKIE JOHNSON, TOMMY GARRETT,
WARDEN JERRY GOODWIN, RAY HANSON, WARDEN, JAMES
LEBLANC, DEPARTMENT OF CORRECTIONS SECRETARY AND
LINDA RAMSEY, SCREENING OFFICER**

Judgment Rendered: May 7, 2010

**Appealed from the
19th Judicial District Court
In and for the Parish of St. Tammany
State of Louisiana
Case No. 578,054**

**The Honorable William Morvant, Judge Presiding
Rachel P. Morgan, Commissioner**

**Robert Kevin McCartney
Homer, Louisiana**

Plaintiff/Appellant *Pro Se*

**William Kline
Baton Rouge, Louisiana**

**Counsel for Defendant/Appellee
Louisiana Department of
Corrections**

BEFORE: DOWNING, GAIDRY, AND McCLENDON, JJ.

GAIDRY, J.

SUMMARY DISPOSITION

Robert Kevin McCartney, a prisoner in the custody of the Louisiana Department of Public Safety and Corrections (the Department), appeals a judgment dismissing his petition for mandamus, injunction, and declaratory judgment seeking review and reversal of disciplinary actions against him; injunctive relief; and monetary damages against various prison officials arising from their alleged negligence, "malfeasance, non-feasance, and misfeasance," and violation of various enumerated constitutional rights.

The action was initially referred to a commissioner for review and screening pursuant to La. R.S. 15:1178 and La. R.S. 15:1188.¹ The commissioner thoroughly detailed her findings in a report, concluding that the petition failed to state a cause of action for mandamus relief and that plaintiff failed to exhaust his administrative remedies, thereby depriving the trial court of subject matter jurisdiction. The commissioner recommended that the suit be dismissed without service of process on the defendants. Following its *de novo* review of the record, the trial court adopted the commissioner's recommendation and dismissed plaintiff's action. Plaintiff appeals, contending that the trial court erred in delegating initial review of his claim to the commissioner and in dismissing his petition based upon the commissioner's recommendations. We affirm.

We initially address plaintiff's contention that the trial court "erred in allowing the Commissioner to enter a report and finding in this cause." After reviewing the nature of plaintiff's claim as expressed in his petition,

¹ The office of the commissioner of the Nineteenth Judicial District Court was created by La. R.S. 13:711 to hear and recommend disposition of criminal and civil proceedings arising out of the incarceration of state prisoners. The commissioner's written findings and recommendations are submitted to a district judge, who may accept, reject, or modify them. La. R.S. 13:713(C)(5).

his assignments of error on appeal, and the entire record in this matter, it is apparent that his contentions relating to the legal propriety of the commissioner's involvement have no merit whatsoever. *See* La. R.S. 15:1177-78 and La. R.S. 15:1188.²

We agree with the commissioner's observation that plaintiff's various claims are set forth in "a rambling, lengthy petition that includes facts regarding numerous individual disputes with the Department that are not adequately separated or identified," and that his petition is "perilously close to being, if it is not, legally frivolous." The commissioner's report even went so far as to point out other procedurally viable avenues for relief. Finding that the commissioner's report and the district court's judgment adequately explain our decision as to the other claims and assignments of error, we affirm the judgment.

DECREE

We accordingly affirm the judgment of the district court through this summary disposition, in accordance with Rules 2-16.2(A)(2), (4), (5), (6), (8), and (10) of the Uniform Rules of the Louisiana Courts of Appeal. All costs of this appeal are assessed to the plaintiff-appellant, Robert Kevin McCartney.

AFFIRMED.

² *See also* n.1, *supra*.