

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NO. 2009 CA 2279**

**KENNETH PHILLIPS**

**VERSUS**

**JAMES LEBLANC, SECRETARY, DEPARTMENT OF  
CORRECTIONS, WARDEN GOODWIN AND TOMMY GARRETT,  
DAVID WADE CORRECTIONAL CENTER**

*Judgment Rendered: June 11, 2010*

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**Appealed from the  
19th Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
Case No. 568762**

**The Honorable R. Michael Caldwell, Judge Presiding**

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**Kenneth Phillips  
Homer, Louisiana**

**Plaintiff/Appellant  
In Proper Person**

**Susan Wall Griffin  
Baton Rouge, Louisiana**

**Counsel for Defendant/Appellee  
James LeBlanc**

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**BEFORE: DOWNING, GAIDRY, AND McCLENDON, JJ.**



**GAIDRY, J.**

In this case, an inmate appeals a judgment dismissing his petition for judicial review with prejudice. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

Plaintiff, Kenneth Phillips, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (“Department”), filed administrative remedy procedure (“ARP”) number DWCC-2008-0765 on June 5, 2008, complaining of a statement in the Department’s “Disciplinary Rules and Procedures for Adult Inmates” that advises inmates that a due process hearing or other application of the disciplinary procedures is only required where a loss of good time is involved. Phillips claimed that this statement made the disciplinary rule book “illegal, inadequate, and unconstitutional in violation of [his] constitutional right of due process.” His ARP was rejected on June 13, 2008 on the ground that it involved a disciplinary matter which was not appealable through the ARP process.

On July 14, 2008, Phillips filed a petition for judicial review of the rejection of his ARP. In this petition, he again alleged that the disciplinary rule book was “illegal, inadequate, and unconstitutional,” and requested that the court “reverse and overturn” all sanctions and all penalties and restore all good time.

Noting that Phillips sought to overturn his prior disciplinary convictions and penalties and that Louisiana Administrative Code Title 22, Part I, Section 325(F) provides that disciplinary matters are not appealable through the ARP, the Commissioner recommended that the final administrative decision rejecting Phillips’ ARP be affirmed and his petition for judicial review be dismissed with prejudice. The district court adopted

the Commissioner's recommendation and dismissed Phillips' petition for judicial review with prejudice. This appeal followed.

### **DISCUSSION**

Phillips argues on appeal that the court erred in dismissing his petition for judicial review on the basis that disciplinary matters are not appealable through the ARP, because he sought only a declaratory judgment stating that the rule book was unconstitutional, not a reversal of a disciplinary decision. He argues that his petition for judicial review "is void of any indication the appellant was seeking anything other than a declaratory judgment [that] the Offender Rulebook was unconstitutional." However, under Paragraph V., entitled "Relief," of Phillips' petition for judicial review, which states: "State briefly exactly what you want the court to do for you," Phillips wrote:

That all sanctions be reverse and overturn and all penalty including all my goodtime that been imposed under the guidelines of the Disciplinary Rules for Adult Inmates dated December 2000 be restore.

Clearly, as the Commissioner noted, Phillips was attempting to circumvent the procedure provided for seeking review of disciplinary matters and instead bring his complaint through the ARP. Phillips could certainly have raised his complaint in a disciplinary appeal of any disciplinary action in which he felt his due process was denied. The ARP was not the appropriate channel for his complaint, and the court did not err in dismissing his petition for judicial review.

### **CONCLUSION**

The judgment of the district court dismissing Kenneth Phillips' petition for judicial review with prejudice is affirmed. Costs of this appeal are to be borne by Phillips.

**AFFIRMED.**