

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 0947

ROMAN FORD

VERSUS

DEPARTMENT OF CORRECTIONS

Judgment Rendered: December 22, 2010

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APPEALED FROM THE NINETEENTH JUDICIAL DISTRICT COURT
IN AND FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA
DOCKET NUMBER 581,933, DIVISION "D"

THE HONORABLE JANICE CLARK (MORGAN), JUDGE

* * * * *

Roman Ford
New Iberia, Louisiana

In Proper Person/Plaintiff/Appellant
Roman Ford

William L. Kline
Baton Rouge, Louisiana

Attorney for Defendant/Appellee
Department of Corrections

BEFORE: WHIPPLE, McDONALD, AND McCLENDON, JJ.

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McDONALD, J.

In this appeal, petitioner, Roman Ford, seeks to have this court review and reverse a decision rendered in the Nineteenth Judicial District Court, dismissing petitioner's complaints without service on the defendant, the Department of Corrections. After the appeal was lodged, this court issued a rule to show cause why the appeal should not be dismissed, which was referred to the panel to which the appeal was assigned. In the interest of justice, we are maintaining the appeal.

Roman Ford filed Administrative Remedy Procedure No. 2009-0183, on April 29, 2009, concerning a disciplinary action taken against him based on an incident "which occurred on" April 24, 2009, resulting in the loss of good time. On May 6, 2009, the Department issued a rejection notification stating that, "Your request has been rejected for the following reason(s): You are reminded that complaints about disciplinary matters may not be raised through this procedure. As defined in the Administrative Remedy Procedure, the appropriate remedy for disciplinary matters is the disciplinary and appeal process." The record does not indicate when the prisoner received this notification.

The Commissioner's Screening Report recommended that this appeal of the administration's decision to reject the complaint as a disciplinary matter improperly asserted in the Administrative Remedy Procedure be dismissed for lack of subject matter jurisdiction. Further, insofar as the claim sought monetary damages, the report suggested that it must be dismissed as filed in the improper format (as an appeal) and in the improper venue required by LSA-R.S. 15:1184.

Louisiana Revised Statutes 15:1184F provides that:

The exclusive venue for delictual actions for injury or damages shall be the parish where the prison is situated to which the prisoner was assigned when the cause of action arose. Upon consent of all parties, the court may transfer the suit to a parish in which venue would otherwise be proper.

At the time of the incident of which Ford complains he was an inmate of C. Paul Phelps Correctional Center, located in DeQuincy, Louisiana, in Calcasieu Parish.

The judgment of the trial court, signed on December 3, 2009, adopting as reasons the Commissioner's Report, dismissed both the good time complaint and the monetary damage claim, at the petitioner's costs and without service on the Department, in accordance with R.S. 15:1178 and 15:1188.

We have maintained the appeal and reviewed the entire record in this matter, as well as the applicable law. Although petitioner seeks to have other decisions consolidated into this proceeding, the appeal being considered is limited to suit number 581,933, which was the petition for judicial review of rejection of ARP No. 2009-0183. We note that this appeal only considered action taken with regard to the rejection of ARP# 2009-183, and not other matters sought to be consolidated by the petitioner. We recognize that while the computation of good time may be challenged in an Administrative Remedy Procedure, the loss of good time due to a disciplinary action may not be challenged in an Administrative Remedy Procedure. See *Williams v. Creed*, 07-0614 (La. App. 1st Cir. 12/21/07), 978 So.2d 419. Therefore, the judgment appealed is affirmed. This opinion is released in compliance with Uniform Rules, Louisiana Courts of Appeal, Rule 2-16.1.B. Costs are assessed to the appellant, Roman Ford.

AFFIRMED.