

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

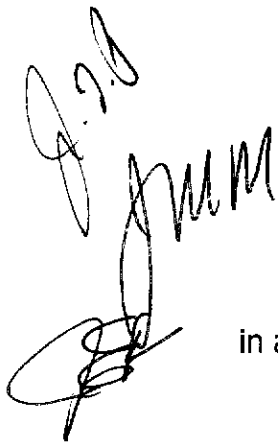
FIRST CIRCUIT

NO. 2012 CA 1501

JASON CHAVANEL

VERSUS

HOWARD PRINCE, WARDEN CORNEL HUBERT, DEPUTY WARDEN
GREG MCKEY, ASSISTANT WARDEN ALLEN VERRETT, MAJOR-
INVESTIGATOR JAMES LEBLANC, DOC SECRETARY INDIVIDUALLY
& IN THEIR OFFICIAL CAPACITIES



Judgment rendered MAR 25 2013

Appealed from the
19th Judicial District Court
in and for the Parish of East Baton Rouge, Louisiana
Trial Court No. 596,990
Honorable Todd Hernandez, Judge

JASON CHAVANEL
ST. GABRIEL, LA

PATRICIA H. WILTON
BATON ROUGE, LA

WILLIAM L. KLINE
BATON ROUGE, LA

IN PROPER PERSON
PLAINTIFF-APPELLANT

ATTORNEY FOR
DEFENDANTS-APPELLEES
HOWARD PRINCE, CORNEL HUBERT,
GREG MCKEY, ALLEN VERRETT,
TERRY MAYEUX & JAMES LEBLANC

ATTORNEY FOR
DEFENDANT-APPELLEE
JAMES M. LEBLANC

BEFORE: KUHN, PETTIGREW, AND McDONALD, JJ.

PETTIGREW, J.

Petitioner, Jason Chavanel, an inmate in the custody of the Louisiana Department of Public Safety and Corrections ("DPSC"), appeals a judgment affirming DPSC's final agency decision rendered under Disciplinary Board Appeal No. EHCC-2009-279, dismissing the claims alleged in his petition for judicial review for failure to raise a substantial right violation, and imposing a strike against him. For the following reasons, we affirm.

DISCUSSION

Chavanel was convicted of violating Rule #30I (General Prohibited Behavior) and Rule #1 (Contraband) and was sentenced to a custody change to maximum-working cellblock and a temporary loss of canteen privileges. After exhausting his administrative remedies, Chavanel filed a petition for judicial review in the Nineteenth Judicial District Court. DPSC responded to the petition with an exception raising the objection of no cause of action. Noting that Chavanel had suffered no significant deprivation of his rights and had not been deprived of any vested property right, DPSC argued that his petition did not state a cause of action. The matter was then referred to a commissioner for review pursuant to La. R.S. 15:1188.¹ The commissioner recommended that Chavanel's claims be dismissed, with prejudice, for failure to raise a "substantial right" violation. The commissioner also recommended that Chavanel be assessed a strike under La. R.S. 15:1187 for failing to state a cause of action or raise a cognizable claim.² Chavanel timely filed a traversal of that recommendation, reiterating his arguments to the court. On August 23, 2011, a judgment was signed, affirming DPSC's decision, dismissing

¹ The offices of commissioner of the 19th Judicial District Court were 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. La. R.S. 13:713(A). The district judge "may accept, reject, or modify in whole or in part the findings or recommendations made by the commissioner and also may receive further evidence or recommit the matter to the commissioner with instructions." La. R.S. 13:713(C)(5).

² The commissioner made other recommendations that are not relative to this appeal, namely, that Chavanel's damage claims and related claims for declaratory relief be dismissed pursuant to La. R.S. 15:1177(C) and that all defendants with the exception of DPSC be dismissed pursuant to La. R.S. 15:1177(A).

Chavanel's petition for failure to raise a substantial right violation, and imposing a strike against Chavanel. This appeal followed.

As noted by the commissioner, the courts may intervene in the decisions of DPSC only in cases where substantial rights of the petitioner have been prejudiced. See La. R.S. 15:1177(A)(9). The penalties imposed herein, i.e., custody change and temporary restriction of canteen privileges, do not rise to the level of atypical punishment or a dramatic departure from basic prison conditions. Therefore, modification or reversal of the disciplinary action was not warranted under the law. After a thorough review of the record, in consideration of Chavanel's arguments on appeal, and applying the relevant law and jurisprudence, we find no error of law or abuse of discretion by the district court in adopting, as its own, the commissioner's report. We, therefore, affirm the August 23, 2011 judgment of the district court and find that the district court's reasons for judgment, as set forth in the commissioner's recommendations, adequately explain the decision. All costs associated with this appeal are assessed against petitioner, Jason Chavanel.

AFFIRMED.