

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

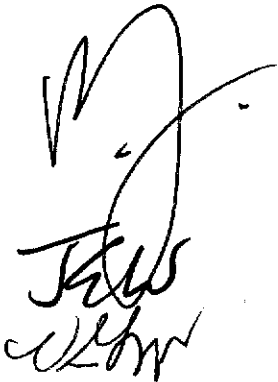
NO. 2013 CA 0655

EDMUND M. SCHEIDEL

VERSUS

JAMES LEBLANC, SECRETARY,  
DEPARTMENT OF CORRECTIONS

Judgment Rendered: DEC 27 2013



\* \* \* \* \*

On Appeal from the  
19th Judicial District Court,  
In and for the Parish of East Baton Rouge,  
State of Louisiana  
Trial Court No. 611,568

The Honorable Wilson Fields, Judge Presiding

\* \* \* \* \*

Edmund M. Scheidel  
Winnfield, Louisiana

Plaintiff/Appellant,  
In Proper Person

William Kline  
Baton Rouge, Louisiana

Attorney for Defendant/Appellee,  
Louisiana Department of  
Corrections

\* \* \* \* \*

BEFORE: WHIPPLE, C.J., WELCH, AND CRAIN, JJ.

**CRAIN, J.**

Edmund M. Scheidel appeals the judgment of the district court dismissing his petition for judicial review in which he requested issuance of a writ of habeas corpus. Scheidel was convicted of forcible rape, a violation of Louisiana Revised Statute 14:42.1, and was sentenced to thirty years imprisonment at hard labor. In his petition, he alleged that he was charged by bill of information, rather than indictment, and therefore the Sheriff of the parish in which he was convicted did not tender an indictment to the Department of Public Safety and Corrections as required by Louisiana Code of Criminal Procedure article 892, making the Department's custody of him illegal.

The district court dismissed Scheidel's suit with prejudice, and without service, for reasons set forth in the written recommendation of the court's commissioner, which included failure to state a cause of action for release or damages and for failure to exhaust administrative remedies. The commissioner noted that numerous complaints had been filed by inmates claiming that because they were charged by bill of information, the Sheriffs in the parishes of their convictions failed to tender to the Department a grand jury indictment as required by Article 892, meaning that the Department's current custody was illegal.

The issue presented here was recently considered by this court in *Lewis v. Secretary, Louisiana State Dept. of Public Safety and Corrections*, 12-1890, 2013WL2488464 (La. App. 1 Cir. 6/7/13) (unpublished), wherein this court found:

Article 892 requires that the sheriff transmit certain documents to the Department upon delivery of a prisoner, including a "copy of the indictment under which the defendant was convicted." Appellant alleged that his commitment papers were deficient because they included only a bill of information, rather than an indictment. This argument lacks merit because, under [Louisiana Code of Criminal Procedure article] 934(6), the term "indictment" by definition includes a bill of information, unless there is a clear intent to restrict the term to the finding of a grand *jury*, which is clearly not the case in Article 892. Moreover, even if proper documentation had not been prepared and delivered to the Department in accordance with Article 892, such

failure would not affect the validity of appellant's convictions or sentences, which constitute the legal authority for the Department's custody. *See* La.C.Cr.P. art. 892(D); *Roland v. Stalder*, 10-0957, p. 3 (La.App. 1st Cir.3/25/11) (unpublished). . . . Appellant failed to establish his claim that he has never been accepted into the Department's custody.

For the same reasons, we find no merit to Scheidel's claims. *Cf. Murphy v. LeBlanc*, 13-0324, 2013WL5915763 (La. App. 1 Cir. 11/1/13) (unpublished). We additionally find no error in the procedure employed by the district court. *See Murphy*, 2013WL5915763; *Lewis*, 2013WL2488464. Accordingly, we affirm the judgment of the district court that dismissed Scheidel's demands at his cost.

The district court additionally assessed Scheidel with a strike pursuant to the Prison Litigation Reform Act. *See* La. R.S. 15:1187. However, the assessment of a strike is a sanction applicable only in suits in which an inmate challenges prison conditions or officials' actions affecting the lives of those confined in prison. *Manuel v. Stalder*, 04-1920 (La. App. 1 Cir. 12/22/05), 928 So. 2d 24, 27-28; *Frederick v. Ieyoub*, 99-0616 (La. App. 1 Cir. 5/12/00), 762 So. 2d 144, 150, *writ denied*, 00-1811 (La. 4/12/01), 789 So. 2d 581. Since Scheidel's suit does not fall into that category, the district court erred in assessing a strike against him.

For the foregoing reasons, the July 24, 2012 judgment of the district court dismissing Scheidel's petition for judicial review is affirmed. That portion of the district court's judgment assessing a strike against Scheidel is reversed. This memorandum opinion is issued in compliance with Uniform Rules – Courts of Appeal Rule 2-16.1B. All costs of this appeal are assessed to Edmund M. Scheidel.

**AFFIRMED IN PART; REVERSED IN PART.**