

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

JEW
CFE
970

NUMBER 2014 CA 0259 AND 2014 CW 0714

KENNETH FRANCIS #87595

VERSUS

JAMES M. LEBLANC, ET. AL (SECRETARY OF DPSC), LINDA
RAMSEY, C/O OF (DPSC), TERRY TERRELL, WARDEN OF (ALC)

Judgment Rendered: SEP 19 2014

Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Trial Court Number 605,740

Honorable Todd Hernandez, Judge

Kenneth Francis,
Homer, LA

Appellant/Relator
Plaintiff—Kenneth Francis,
Pro Se

Jonathan R. Vining
Baton Rouge, LA

Attorney for
Appellees/Respondents
Defendants—Louisiana
Department of Public Safety
& Corrections, et al.

BEFORE: KUHN, PETTIGREW, AND WELCH, JJ.

WELCH, J.

Kenneth Francis, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the “Department”), appeals a judgment of the district court, which denied and dismissed his petition for habeas corpus. In addition, Francis filed an application for a supervisory writ seeking review of the district court’s judgment denying Francis’s motion to supplement the appellate record, which was referred to the merits of this appeal. For reasons that follow, we affirm the district court’s judgment in compliance with Uniform Rules—Courts of Appeal, Rule 2-16.2(A)(2), (4), (6), (7), (8), and (10), and we deny the supervisory writ application.

On October 5, 2011, Francis filed a “Petition for Writ of Habeas Review” challenging the Department’s decision to deny him good-time credits because he was sentenced pursuant to La. R.S. 15:529.1 as a habitual offender. In the petition, Francis essentially claims that he is being unlawfully confined because the sentencing court failed to vacate his original sentence in compliance with La. R.S. 15:529.1 before sentencing him as a habitual offender, and therefore, his sentence under La. R.S. 15:529.1 is null and void, he is entitled to good-time credit, and he should be immediately released.

Following a hearing in October 2012, the commissioner assigned to the matter issued a recommendation to the district court that the habeas corpus relief should be denied and that the petition should be dismissed. The commissioner noted that the minutes and pleadings Francis provided from the sentencing court reflected that the sentencing court did not impose any sentence other than the habitual offender sentence at issue, and as such, there was no original sentence to be vacated. Thus, Francis was not entitled to the relief requested from the Department or the district court.

After considering the entire record of the proceedings, by judgment signed on July 22, 2014, the district court adopted the commissioner's recommendation and rendered judgment denying Francis the requested habeas corpus relief and dismissing his petition. After a thorough review of the record of these proceedings, we find no error in the judgment of the district court and affirm the judgment.¹

With regard to the supervisory writ application, Francis filed a motion to supplement the appellate record, essentially seeking to supplement the record with a transcription of the October 2012 video conference/hearing with the commissioner, which the district court denied. The minute entry does not reflect (and Francis does not contend) that any testimony was heard or that any documentary evidence was introduced at that hearing. We have reviewed the record in its entirety and find that the record before us contains all pertinent pleadings, minute entries, etc. as required by La. C.C.P. art. 2128 and Uniform Rules—Courts of Appeal, Rule 2. Therefore, we deny the supervisory writ application.

All costs of this appeal are assessed to the plaintiff/appellant, Kenneth Francis.

AFFIRMED; WRIT DENIED.

¹ In addition, we note that Francis's petition appears to fall under the provisions of the Corrections Administrative Remedy Procedure, La. R.S. 15:1171, *et seq.*, because it involves a dispute on good-time eligibility. The record references and contains ARP #ALC-2011-375 and includes the Department's first response and second response findings that, as an adjudicated habitual offender, Francis was not eligible for good-time under La. R.S. 15:571.3. The first step response is dated July 15, 2011 and the second step response is dated August 23, 2011. The record does not reflect that Francis filed a petition for judicial review of the Department's final administrative decision within thirty days after his receipt of the notice of the final agency decision. See La. R.S. 15:1177(A)(1)(a). Although Francis's claim for habeas corpus relief was based upon his eligibility for good-time credit, even if his claim had merit (which it does not), he would not be entitled to habeas corpus relief as his good-time release date would still require computation by the Department.