

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 2163

HAROLD JOE BLACK

VERSUS

LOUISIANA PAROLE BOARD MEMBERS SCOTT, JAMES, AND
LOWE AND ARP SCREENING OFFICER CATHY PONCH

DATE OF JUDGMENT: MAY - 7 2010

ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT
NUMBER 543,956, SECTION 8, PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

HONORABLE WILSON FIELDS, JUDGE

Harold Joe Black
Homer, Louisiana

Plaintiff-Appellant
In Proper Person

Patricia H. Wilton
Assistant Attorney General
Baton Rouge, Louisiana

Counsel for Defendant-Appellee
Louisiana Parole Board

BEFORE: PARRO, KUHN, AND McDONALD, JJ.

Disposition: AFFIRMED.

McDonald, J. concurs.

KUHN, J.

Plaintiff-appellant, Harold Joe Black, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (“DPSC”), appeals the district court’s judgment that dismissed his petition for judicial review, wherein he sought damages arising from DPSC’s rejection of his administrative remedy procedures (“ARP”) request, numbered ALC-2005-869. In that request, Black requested that his parole be reinstated because the Parole Board was unable to produce tapes of his April 13, 2004 “revocation hearing.” The DPSC rejected Black’s ARP request on the grounds that Parole Board decisions are not appealable through the ARP process. See LAC 22:I.325C(2). After considering Black’s allegations, the district court’s commissioner recommended the affirmance of DPSC’s decision to reject Black’s ARP request and the dismissal of this matter with prejudice at Black’s cost. The commissioner’s recommendation stated, in pertinent part:

[I]n a prior matter [the Nineteenth Judicial District Court] determined that although [Black’s] parole proceedings were not preserved for review, the petitioner was entitled to no relief as the proceedings involved a denial of a request for release on parole, rather [than] a revocation decision. [La. R.S. 15:574.11] provides the petitioner has no right to appeal a denial of a request for release on parole....¹

¹ Louisiana Revised Statutes 15:574.11A provides:

Parole is an administrative device for the rehabilitation of prisoners under supervised freedom from actual restraint, and the granting, conditions, or revocation of parole rest in the discretion of the Board of Parole. No prisoner or parolee shall have a right of appeal from a decision of the board regarding release or deferment of release on parole, the imposition or modification of authorized conditions of parole, the termination or restoration of parole supervision or discharge from parole before the end of the parole period, or the revocation or reconsideration of revocation of parole, except for the denial of a revocation hearing under R.S. 15:574.9.

In this matter [Black] challenges a rejection of [an ARP request.] This Commissioner finds [Black's] complaint against the Parole Board seeking monetary relief was properly rejected pursuant to [LAC 22:I.325C(2)]. Decisions and actions of the Parole Board cannot be challenged in an [ARP] request. The petitioner should file any complaint seeking monetary damages against the Parole Board [pursuant to] the original jurisdiction of a district court in the parish where he was housed when the cause of action arose. [See La. R.S. 15:1184F].²

(Footnotes added).

By judgment dated July 24, 2008, the district court affirmed the decision to reject Black's ARP request and dismissed Black's petition with prejudice at his cost.

On appeal, Black claims that DPSC violated his civil rights when it rejected his ARP request. Based on our review of the record, we find no support for this claim, and we affirm the district court's judgment in accordance with Uniform Rules, Courts of Appeal, Rule 2-16.2A(2), (4), (5), and (6). Appeal costs are assessed against Harold Joe Black.

AFFIRMED.

² Louisiana Revised Statutes 15:1184F provides, in pertinent part, "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." The record demonstrates Black was never assigned to a prison situated in East Baton Rouge Parish.