

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2010CA0147

LEROY MATTHEWS, JR.

VERSUS

LOUISIANA PAROLE BOARD

Judgment Rendered: June 11, 2010

**Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Case No. 574,561**

The Honorable William A. Morvant, Judge Presiding

**André Bélanger
Baton Rouge, Louisiana**

**Counsel for Plaintiff/Appellant
Leroy Matthews, Jr.**

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**Counsel for Defendant/Appellee
Louisiana Parole Board**

BEFORE: DOWNING, GAIDRY, AND McCLENDON, JJ.



GAIDRY, J.

SUMMARY DISPOSITION

The plaintiff-appellant, Leroy Matthews, Jr., a prisoner in the custody of the Louisiana Department of Public Safety and Corrections, filed a petition for *habeas corpus* in the 19th Judicial District Court, seeking judicial review of the decision of the Louisiana Parole Board (the Board) to revoke his parole. The action was initially referred to a commissioner for review pursuant to La. R.S. 15:1188.¹ By stipulation, the commissioner granted plaintiff leave to amend his petition to one seeking judicial review alleging violation of due process in connection with the revocation hearing, pursuant to La. R.S. 15:574.11(A). Following its *de novo* review of the record, the trial court adopted the commissioner's recommendation and dismissed plaintiff's action with prejudice and at his cost. Plaintiff appeals pursuant to La. R.S. 15:574(C). We affirm.

The plaintiff was convicted of forcible rape in Louisiana and was sentenced to imprisonment. He was later released pursuant to sentence diminution, under parole supervision. After moving to Texas, his parole supervision was transferred to that state. His Texas parole officer determined that he was in violation of certain conditions of his parole in Texas. Plaintiff claims that he was denied due process because he was not given a preliminary hearing in Texas to determine probable cause for violation of conditions of parole. He does not deny that he was afforded the final revocation hearing by the Board required by La. R.S. 15:574.9.

¹ The office of the commissioner of the Nineteenth Judicial District Court was created by LSA-R.S. 13:711 to hear and recommend disposition of criminal and civil proceedings arising out of the incarceration of state prisoners. The commissioner's written findings and recommendations are submitted to a district judge, who may accept, reject, or modify them. La. R.S. 13:713(C)(5).

As noted in the commissioner's report, the Texas Department of Criminal Justice's Parole Division provided notice of and an opportunity for plaintiff to rebut or explain the parole violations charged, and plaintiff admitted in writing to violation of a special condition prohibiting him from owning, maintaining, or operating photographic equipment without the written authorization of his parole officer. The record confirms the commissioner's determination that probable cause was therefore established. Further, as plaintiff in fact pleaded guilty to the above-described violation at the final revocation hearing, no violation of due process has been shown. *See Morrissey v. Brewer*, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972).

Finding the commissioner's report and the trial court's judgment adequately explain our decision, we affirm the judgment.

DECREE

We accordingly affirm the judgment of the trial court through this summary disposition, in accordance with Rules 2-16.2(A)(2), (4), (5), (6), (8), and (10) of the Uniform Rules of the Louisiana Courts of Appeal. All costs of this appeal are assessed to the plaintiff, Leroy Matthews, Jr.

AFFIRMED.