

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2010 CA 0994

TORY C. BOATNER

VERSUS

LOUISIANA DEPARTMENT OF CORRECTIONS

Judgment Rendered: December 22, 2010

**Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Case No. 552,135**

The Honorable Todd Hernandez, Judge Presiding

**Tory C. Boatner
Angola, Louisiana**

**Plaintiff/Appellant
*Pro Se***

**Terri L. Cannon
Baton Rouge, Louisiana**

**Counsel for Defendant/Appellee
Louisiana Department of
Corrections**

BEFORE: CARTER, C.J., GAIDRY AND WELCH, JJ.

GAIDRY, J.

SUMMARY DISPOSITION

The plaintiff-appellant, Tory C. Boatner, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the Department) at the Louisiana State Penitentiary, filed a petition for judicial review of a final agency decision of the Department's Disciplinary Board under the Corrections Administrative Remedy Procedure Act, La. R.S. 15:1171, *et seq.* The Disciplinary Board affirmed the decision of the warden, finding plaintiff guilty of violating disciplinary rules relating to introduction of contraband (marijuana) and prohibited behavior and sentencing him to a custody change to "maximum" or "extended lockdown" and loss of incentive wages for 156 weeks.

The trial court's commissioner issued a comprehensive report detailing the administrative history of the request for administrative remedies, its underlying facts, its disposition, the applicable legal issues, and his findings and recommendation that the final agency decision be affirmed and Mr. Boatner's petition be dismissed with prejudice. Following its *de novo* review of the record, the trial court adopted the commissioner's report as its reasons for judgment. Mr. Boatner appeals the judgment of the trial court, signed on December 17, 2008, adopting the commissioner's report and dismissing his petition with prejudice.¹

The evidence supports the disciplinary action imposed as neither excessive nor an abuse of discretion, and there is no showing that Mr. Boatner's right to due process was violated by denying him access to the

¹ Plaintiff sought to appeal the judgment by pleadings filed on February 3, 2009, but because the trial court failed to act upon those pleadings, this court was forced to grant writs twice at the plaintiff's request, ordering the trial court to do so. *Boatner v. La. Dep't of Pub. Safety & Corr.*, 2009 CW 1216 (La. App. 1st Cir. 9/14/09)(unpublished writ disposition) and *Boatner v. La. Dep't of Pub. Safety & Corr.*, 2009 CW 2029 (La. App. 1st Cir. 12/30/09)(unpublished writ disposition).

confidential documents, given the nature of the information and the circumstances upon which the disciplinary action was based. We likewise conclude that the commissioner and the trial court did not err in ordering that the confidential documents be filed in the record under seal. Finding the commissioner's report and the trial court's judgment adequately explain our decision, we affirm the judgment.

We accordingly affirm the judgment of the trial court through this summary opinion, in accordance with Rules 2-16.2(A)(4), (5), (6), (7), and (8) of the Uniform Rules of the Louisiana Courts of Appeal. All costs of this appeal are assessed to the plaintiff, Tory C. Boatner.

AFFIRMED.