

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2011 CA 0292

IVORY L. SIMON

VERSUS

WARDEN, ALLEN CORRECTIONAL CENTER

Judgment Rendered: September 14, 2011.

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On Appeal from the
19th Judicial District Court,
In and for the Parish of East Baton Rouge,
State of Louisiana
Trial Court No. 588,779

The Honorable Timothy E. Kelley, Judge Presiding

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Ivory L. Simon
Kinder, La.

Petitioner/Appellant
In Proper Person

Jonathan R. Vining
Baton Rouge, La.

Attorney for Defendant/Appellee,
James M. LeBlanc, Secretary, Department
of Public Safety and Corrections

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BEFORE: CARTER, C.J., PARRO AND HIGGINBOTHAM, JJ.

BSA
RHP
TMH

CARTER, C.J.

Petitioner/Appellant, Ivory L. Simon, an inmate in the custody of the Louisiana Department of Public Safety and Corrections, filed a petition for mandamus relief on March 23, 2010, alleging he had not timely received the second step response to his request for relief filed under Administrative Remedy Procedure No. ALC-2009-787. Defendant filed a response indicating that the second step response was issued on February 23, 2010. Following a *de novo* review, the district court adopted the commissioner's October 11, 2010, report as its reasons for dismissing Simon's claim as moot. Simon now appeals.

As set forth in the commissioner's report, the relief requested in the writ of mandamus has been obtained by Simon and no further mandamus relief is available. After a review of the record herein, we agree with the commissioner's analysis and conclude that Simon timely received the second step response to his request for relief, thus rendering his request for mandamus relief moot. *See State v. Malone*, 08-2253 (La. 12/1/09); 25 So. 3d 113, 116.

For the reasons set forth herein, we affirm the district court's judgment by summary opinion in accordance with Uniform Rules – Courts of Appeal, Rule 2-16.2A(5). Costs of this appeal are assessed to the petitioner/appellant, Ivory L. Simon.

AFFIRMED.