

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2011 CA 2080

GLENN HILL

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONS

Judgment Rendered: June 8, 2012

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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. 603,029

Honorable R. Michael Caldwell, Judge Presiding

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Glenn Hill
Angie, LA

Plaintiff-Appellant,
In Proper Person

William Kline, Jr.
Baton Rouge, LA

Attorney for Defendant-Appellee,
Louisiana Department of Public Safety and
Corrections

* * * * *

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

TMH
BAC
RHP
BAC

HIGGINBOTHAM, J.

Glenn Hill, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals a screening judgment dismissing his petition with prejudice for failure to state a cause of action. For the following reasons, we affirm.

DISCUSSION

According to the record, Hill filed a petition for judicial review of DPSC's decision rendered under Disciplinary Board Appeal No. DCI-2011-39 wherein he was convicted of violating Rule #5, Aggravated Disobedience, and was sentenced to extended lockdown and 30 days of room confinement. He claims that the disciplinary board erred in denying his motion to defer and that the punishment imposed was excessive. Hill filed an administrative remedy procedure request pursuant to the Corrections Administrative Remedy Procedure Act, La. R.S. 15:1171-1179 and was denied at both steps of the process. The DPSC Secretary's decision stated that the disciplinary board had acknowledged Hill's motion to defer and verbally informed him why it would not be granted. The Secretary further stated that Hill was provided a full hearing and was afforded due process in both the hearing and sentencing phases of the proceeding.

Hill filed a petition for judicial review with the 19th Judicial District Court seeking reversal of the decision of the disciplinary board and requesting that the room confinement sentence, which had been served, be credited to any future sentences of room confinement. A screening judgment signed by the district court on August 15, 2011, adopted the recommendation of the Commissioner and dismissed Hill's suit with prejudice for failure to state a cause of action. The

district court also imposed a “strike” in accordance with La. R.S. 15:1187¹ for Hill’s failure to state a cause of action or raise a cognizable claim.

The “Commissioner’s Screening Recommendation” stated the following:

[Hill] has no constitutional or substantial right to any particular housing classification, job classification or recreational hobby craft. See **Sandin v. Conner**, 515 U.S. 472, 115 S.Ct. 2293, 132 L.Ed.2d 418 (1995); **Meachum v. Fano**, 427 U.S. 215, 96 S.Ct. 2532, 49 L.Ed.2d 451 (1976); **Taylor v. Broom**, 526 So.2d 1367 (La. App. 1st Cir.1988).

* * *

In cases such as this one, where the potential punishment only affects a custody classification and not eventual release, due process merely requires that the prisoner be allowed to give his version of the incident. [Hill] fails to allege that the penalty imposed by the disciplinary board constitutes an atypical deprivation of a substantial right of [Hill]. This Commissioner finds [Hill] has failed to state a cause of action for judicial review in this matter and [Hill] cannot amend to cure the defect in his pleadings. (Citation omitted).

The district court judge reviewed the record and rendered a judgment in accord with the Commissioner’s Recommendation. This appeal by Hill followed. After thorough review of the record, we find no error in the district court judgment entered herein. Therefore, the trial court judgment recognizing and granting the peremptory exception raising the objection of no cause of action and dismissing Hill’s suit is affirmed. All costs associated with the appeal are assessed against plaintiff, Glenn Hill. We issue this memorandum opinion in accordance with Uniform Rules-Courts of Appeal, Rule 2-16.1B.

AFFIRMED.

¹ La. R.S. 15:1187 provides:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding in forma pauperis if the prisoner has, on three or more prior occasions while incarcerated or detained in any facility, brought an action or appeal in a state court that was dismissed on the grounds that it was frivolous, was malicious, failed to state a cause of action, or failed to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.