

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2011 CA 2371

CLIFTON JONES, JR.

VERSUS

JAMES LEBLANC ET AL; LOUISIANA DEPARTMENT OF SAFETY
AND CORRECTIONS

DATE OF JUDGMENT: SEP 21 2012

ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT
NUMBER 598,379, SECTION 27, PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

HONORABLE TODD HERNANDEZ, JUDGE

Clifton Jones, Jr.
Jackson, Louisiana

Pro Se

Jonathan R. Vining
Baton Rouge, Louisiana

Counsel for Defendant-Appellee
James M. LeBlanc

BEFORE: KUHN, PETTIGREW, AND MCDONALD, JJ.

Disposition: AFFIRMED.

KUHN, J.

Petitioner-appellant, Clifton Jones, Jr., an inmate in the custody of the Department of Public Safety and Corrections (DPSC), appeals the district court's dismissal of his petition for judicial review, challenging DPSC's denial of his claim for administrative remedy procedure relief, seeking "good time" eligibility on his charge of perjury. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On August 29, 1991, Jones was arrested and charged with one count of second degree murder. On February 7, 1992, Jones pled guilty to the reduced charge of manslaughter. He was sentenced to serve a term of 21 years at hard labor with credit for time served. On May 12, 1992, Jones was arrested and charged with one count of inconsistent statements; perjury. Following a jury trial, Jones was found guilty and sentenced to 20 years as a habitual offender under La. R.S. 15:529.1.

Jones filed a request for an administrative remedy, seeking to earn good time for his present sentence of perjury. The DPSC denied his request for an administrative remedy, upon which Jones sought judicial review, averring that he was improperly being denied eligibility for good time credit. After careful review of the administrative record and applicable law, the Commissioner recommended that DPSC's decision to deny good time eligibility be affirmed and that the appeal be dismissed with prejudice.

From a judgment rendered in accordance with the Commissioner's recommendation, Jones appeals, contending that the district court erred in allowing the DPSC to deny him good-time eligibility. He contends that because his perjury charge under La. R.S. 15:529.1 is illegal, he qualifies for the opportunity to earn good time pursuant to La. R.S. 15:571. Specifically, he asserts that the instant

offense of perjury is not listed on the enumerated convictions list under La. R.S. 15:571.3. Additionally, he maintains that because he pled guilty to the offense of manslaughter in 1992, rather than having been found guilty by a judge or a jury, he has no "conviction" to support an imposition of La. R.S. 15:571.3(C).

DISCUSSION

La. R.S. 15:571.3 governs eligibility for good time. In May 1992, the time of the offense for which Jones was adjudicated a habitual offender, the statute provided, in relevant part:

C. Diminution of sentence shall not be allowed an inmate in the custody of the Department of Public Safety and Corrections if:

(1) The inmate has been convicted one or more times under the laws of this state of any one or more of the following crimes ...

(c) Manslaughter. ...

(r) Any felony which is defined as an attempt to commit one of the crimes enumerated in (a) through (q) herein, and

(2) The inmate has been sentenced as an habitual offender under the Habitual Offender Law as set forth in R.S. 15:529.1, and

(3) The inmate's last conviction for the purposes of the Habitual Offender Law, was for a crime ... (b) committed on or after September 10, 1977.¹

The requirements of all three subsections of La. R.S. 15:571.3(C) must be present in order to deny an inmate the opportunity to earn good time. *Spellman v. Stalder*, 98-0725 (La. App. 1st Cir. 4/1/99), 740 So.2d 671, 674, writ granted and remanded on other grounds, 99-1801 (La. 10/8/99), 750 So.2d 172. To fulfill the requirements of La. R.S. 15:571.3(C)(1), either a prior conviction or the instant conviction may be used. *Spellman*, 740 So.2d at 674.

¹ Although La. R.S. 15:571.3 has been amended various times, including by La. 2011 Acts No. 186, § 2, which re-positioned the list of enumerated crimes to subsection (B) from subsection (C), we apply the version of the statute in effect at the time Jones was convicted of perjury.

As the commissioner clearly explained, a guilty plea results in a final conviction. *State v. Bosworth*, 451 So.2d 1070, 1074 (La. 1984). Thus, Jones' assertion that a guilty plea is not a conviction for purposes of La. R.S. 15:571.3(C) has no merit. And a prior conviction for a crime listed in La. R.S. 15:571.3(C)(1) may properly form the basis for the denial of good-time eligibility. See *Spellman*, 740 So.2d at 674; see also *Newson v. LeBlanc*, 10-1524 (La. App. 1st Cir. 3/25/11) (unpublished). Thus, DPSC correctly denied Jones the opportunity to earn good time.

DECREE

For these reasons, the district court judgment, dismissing without prejudice petitioner's petition for judicial review rendered in conformity with the commissioner's screening report, is affirmed in accordance with La. Uniform Court of Appeal Rule 2-16.2.A (2), (4), (5), (6), and (8). Appeal costs are assessed against petitioner-appellant, Clifton Jones, Jr.

AFFIRMED.