

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2011 CA 2372

ANTHONY CUPIT

VERSUS

WARDEN HOWARD PRINCE, HEAD WARDEN,
CARLA MAZWELL, RECORDS DEPARTMENT,
AND JAMES LEBLANC, SECRETARY OF
CORRECTIONS

Judgment Rendered: SEP 24 2012

Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Trial Court Number 599,125

Honorable Todd Hernandez, Judge

Anthony Cupit
St. Gabriel, LA

In Proper Person
Plaintiff – Appellant

William L. Kline
Baton Rouge, LA

Attorney for
Defendants – Appellees
James M. LeBlanc, Secretary,
Department of Public Safety
& Corrections

BEFORE: PARRO, HUGHES, AND WELCH, JJ.

JAW

RHP

JD

WELCH, J.

Anthony Cupit, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the "Department"), confined to the Elayn Hunt Correctional Center in St. Gabriel, Louisiana, appeals a judgment of the district court dismissing his petition for judicial review of Administrative Remedy Procedure No. E.H.C.C.-2010-1080 and affirming the Department's final decision in the matter.

In 1983, Cupit was convicted of manslaughter and armed robbery; he was subsequently sentenced to serve consecutive prison terms of twenty-one years and fifteen years, respectively, for those crimes. In 1986, while serving his first sentence for manslaughter, he was convicted of simple escape and sentenced to two-years in prison, which was to be served consecutively with his previous sentences. On March 12, 2003, Cupit was released on good time parole supervision, but on October 28, 2009, Cupit was returned to the physical custody of the Department, because his good time parole supervision had been revoked.

On February 9, 2011, Cupit filed a request for judicial review of the denial of administrative relief, claiming that the Department had unlawfully taken good time from him and extended his incarceration. Essentially, he contended that he had completed the twenty-one year manslaughter sentence and the two-year escape sentence, but that the Department failed to properly calculate his sentences and to recognize that he had completed the two sentences at issue. In denying administrative relief, the Department contended that Cupit was required to reach a good time release date on all three of his consecutive terms before he could be released on good time parole supervision. Thus, when Cupit reached his good time release date on his first sentence, he could not be released from physical custody due to his two remaining consecutive terms. The Department further contended that in order for Cupit to receive the benefit of earning good time, Cupit's second

sentence began on the date he reached his good time release date on his first sentence, and when Cupit reached his good time release on his second sentence, his third sentence began to run.

Cupit claimed that the Department did not have the authority to stop the running of his twenty-one year manslaughter sentence when he reached his good-time release date on that particular sentence and began serving the fifteen year consecutive armed robbery sentence, and, since he remained in physical custody on both charges, he should have continued to receive credit on his twenty-one year manslaughter sentence for the entire time he was held in physical custody.

On August 16, 2011, the commissioner assigned to the matter issued a report to the district court recommending that the Department's decision be affirmed and that Cupit's petition be dismissed. The commissioner noted in his report that Cupit was essentially claiming that he should receive credit on two sentences at the same time, but due to the fact that Cupit was serving consecutive terms, he could not receive credit on more than one sentence at a time. In other words, he could not continue to receive credit on his twenty-one year manslaughter sentence at the same time he was receiving credit on his fifteen year armed robbery sentence. The commissioner further noted that the Department had calculated Cupit's sentence utilizing a method that recognized that his sentences must be served in a consecutive manner and that also gave Cupit the benefit of earned good time credits. Thus, the commissioner determined that Cupit had failed to establish that the Department improperly calculated the balance remaining on his sentence or that the Department's final decision should be disturbed on judicial review.

After considering the entire record of the proceedings, on September 7, 2011, the district court adopted the commissioner's recommendation and rendered judgment affirming the Department's decision and dismissing Cupit's petition for judicial review. After a thorough review of the record of these proceedings, we

find no error in the judgment of the district court and affirm the district court's judgment in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.2(A)(5), (6), (7), and (8). All costs of this appeal are assessed to the plaintiff/appellant, Anthony Cupit.

AFFIRMED.