

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2012 CA 0191

JOHNSON WASHINGTON

VERSUS

THE STATE OF LOUISIANA; AND LOUISIANA DEPARTMENT OF
CORRECTIONS THROUGH THE ATTORNEY GENERAL OF THE
STATE OF LOUISIANA, ET AL

DATE OF JUDGMENT: SEP 21 2012

ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT
NUMBER 603,678, SEC. 25, PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

HONORABLE WILSON FIELDS, JUDGE

Johnson Washington
Angola, Louisiana

Pro se

William Kline
Baton Rouge, Louisiana

Counsel for Defendant-Appellee
Louisiana Department of Safety and
Corrections

BEFORE: KUHN, PETTIGREW, AND MCDONALD, JJ.

Disposition: AFFIRMED.

M^cDonald, J. concurs.

KUHN, J.

Petitioner-appellant, Johnson Washington, an inmate in the custody of the Department of Public Safety and Corrections (DPSC), appeals the district court's dismissal, without prejudice, of his petition for judicial review, which challenged the denial of his request for parole eligibility and asserted constitutional violations by DPSC as a result of that denial. We affirm.

Washington was convicted of first degree murder. According to the allegations of his petition, although he was initially sentenced to death, the sentence was vacated, and he was resentenced to life imprisonment without benefit of parole for a term of twenty years. Washington maintains that because he has served in excess of twenty years, he should, therefore, be deemed eligible for parole. DPSC denied Washington's request for parole eligibility, probation, or suspension of sentence, and Washington challenged the denial by filing this suit in district court. The commissioner found that because Washington failed to properly initiate and complete his administrative remedies, the court lacked subject matter jurisdiction and recommended that the suit be dismissed without prejudice. The district court issued a judgment in conformity with the commissioner's recommendation.

On review, we agree that the commissioner properly characterized the nature of the suit as a grievance against DPSC. See La. R.S. 15:1171B. Based on the contents of the record, we, therefore, find no error in the district court's dismissal of Washington's petition without prejudice. See *Hull v. Stalder*, 2000-2730 (La. App. 1st Cir. 2/15/02), 808 So.2d 829, 831.

DECREE

The district court judgment, dismissing without prejudice, petitioner's petition for judicial review, 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, Johnson Washington.

AFFIRMED.