

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2012 CA 1160

REGINALD MORRISON

VERSUS

BURL CAIN, WARDEN, L.S.P

Judgment Rendered: FEB 15 2013

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On Appeal from the Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket No. 607,957

Honorable William A. Morvant, Judge Presiding

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Reginald Morrison
Louisiana State Prison
Angola, Louisiana

Plaintiff/ Appellant
In Proper Person

William Kline
Baton Rouge, Louisiana

Counsel for Defendant/Appellee
Louisiana Department of Corrections

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BEFORE: WHIPPLE, C.J., McCLENDON, AND HIGGINBOTHAM, JJ.

WAM
PMC

HIGGINBOTHAM, J.

Reginald Morrison, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the Department), was convicted of violating Disciplinary Rules #1 (contraband) and #30-W (general prohibited behavior) and was sentenced to a quarters change to Camp J, extended lockdown. After exhausting his review before the Department, Mr. Morrison filed a petition for judicial review in the Nineteenth Judicial District Court. In a screening report submitted by the commissioner for the district court, it was recommended that the court raise, on its own motion, and grant an exception of no cause of action, dismissing Mr. Morrison's suit with prejudice, prior to service, without an opportunity to amend and at his cost. The commissioner also recommended that Mr. Morrison be assessed a strike pursuant to LSA-R.S. 15:1187 for failing to state a cause of action or raise a cognizable claim. Thereafter, the district court issued a screening judgment in conformity with the recommendation of the commissioner.

The Due Process Clause does not protect every change in the conditions of confinement having a substantial adverse impact on a prisoner. **Giles v. Cain**, 99-1201 (La. App. 1 Cir. 6/23/00), 762 So.2d 734, 738 (citing **Sandin v. Conner**, 515 U.S. 472, 478, 115 S.Ct. 2293, 2297, 132 L.Ed.2d 418 (1995)). Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system. Discipline by prison officials in response to a wide range of misconduct falls within the expected parameters of the sentence imposed by a court of law. **Sandin**, 515 U.S. at 485, 115 S.Ct. at 2301. Thus, in order to invoke the protections of the Due Process Clause, a prisoner must show an imposition of an atypical and significant hardship in relation to the ordinary incidents of prison life. **Sandin**, 515 U.S. at 484, 115 S.Ct. at 2300.

After a thorough review of the record, we find no error in the analysis or conclusions of the district court. As recognized by the commissioner, LSA-R.S. 15:1177A(9) authorizes the district court to intervene in the decision of the Department only if Mr. Morrison's "substantial rights" had been violated, and a change in custody classification is not an atypical deprivation of a substantial right.¹ See **Parker v. LeBlanc**, 02-0399 (La. App. 1 Cir. 2/14/03), 845 So.2d 445, 446. Further, a custody change to extended lockdown has been held not to prejudice a substantial right so as to state a cause of action for judicial review. See **Giles**, 762 So.2d at 739. Accordingly, we find Mr. Morrison failed to establish that his custody change to extended lockdown is an atypical or significant hardship in relation to the ordinary incidents of prison life, and, therefore, failed to establish that his substantial rights were prejudiced. Thus, modification or reversal of the disciplinary action was not warranted under the law.

For the foregoing reasons, we affirm the March 13, 2012 judgment of the district court, dismissing with prejudice Mr. Morrison's petition for judicial review. Costs of this appeal are assessed to Reginald Morrison.

AFFIRMED.

¹ The standard of review to be applied by the district court is set forth in LSA-R.S. 15:1177A(9), which provides:

The court may reverse or modify the decision only if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional or statutory provisions.
- (b) In excess of the statutory authority of the agency.
- (c) Made upon unlawful procedure.
- (d) Affected by other error of law.
- (e) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.
- (f) Manifestly erroneous in view of the reliable, probative and substantial evidence on the whole record. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by firsthand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.