

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2013 CA 0053

ANDREA HALL

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC
SAFETY AND CORRECTIONS

Judgment Rendered: NOV 01 2013

Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Trial Court Number 613,628

Honorable William A. Morvant, Judge

Andrea Hall
Angola, LA

Pro Se - Appellant
Plaintiff – Andrea Hall

William L. Kline
Baton Rouge, LA

Attorney for Appellee
Defendant – Louisiana Department
of Corrections

BEFORE: WHIPPLE, C.J., WELCH, AND CRAIN, JJ.

WELCH, J.

Andrea Hall, an inmate in the custody of the Louisiana Department of Public Safety & Corrections (the Department) and housed at the Louisiana State Penitentiary, appeals the dismissal of his petition for judicial review of a disciplinary action for the failure to raise a “substantial right” violation. We affirm.

On July 10, 2012, Hall filed a petition seeking judicial review of a disciplinary decision in which he was found guilty of the offense of aggravated fighting and was sentenced to a custody change and ordered to pay restitution in the amount of \$25.00 for medical expenses. In the petition, Hall asserted that the Disciplinary Board (Board) erred in denying his request to withdraw the investigation report of the fighting incident from the records, claiming that it was based on the uncorroborated statement of the other inmate involved in the fight and that there were no photographs of the items of evidence referred to therein. Hall asked that the prison officials be ordered to submit photo copies of the items of evidence and to inform the Board how they obtained the items. Secondly, Hall urged that the Board erred in denying his motion for dismissal of the disciplinary report because the reporting officer did not allege that a weapon had been used or that he intentionally inflicted serious injuries upon the other inmate. Finally, Hall asserted that the Board erred in denying his motion to dismiss the disciplinary report because the allegations of the other inmate were unbelievable and any actions taken by Hall were done in self-defense. Hall asked that the disciplinary report and/or the investigative report be dismissed, or in the alternative, that the matter be remanded for another hearing. He also asked for reconsideration of the sentence imposed in the event that the Rule 11 (aggravated fighting) violation was dismissed because that rule violation had been combined with an aggravated work offense of November 2011.

Hall's appeal of the Board's decision was denied by the warden and the Department. In its written reasons for upholding the decision of the Board, the Department found the disciplinary reports to provide convincing evidence of the violations charged and that Hall failed to provide any evidence to refute the charges or prove his claim of self-defense. It also observed that Hall was afforded a full hearing and was afforded due process in both the hearing and sentencing phases of the proceeding.

The Commissioner appointed by the district court conducted a screening of Hall's petition and found that it failed to raise a "substantial right" violation, and therefore, failed to state a cognizable claim or cause of action for relief. The Commissioner noted that the only penalty imposed was a custody change and that Hall had been afforded a hearing and an appeal of the ruling. Given the fact that the penalty did not affect the length of Hall's sentence or present any other drastic departure from expected prison life, the Commissioner found no substantial right violation that would permit a court to intervene and reverse the administrative decision.

Hall objected to the Commissioner's recommendation, asserting that the Commissioner erroneously found that the only penalty imposed in this case was a change of custody because a penalty of restitution for the costs of medical expenses had also been imposed. Hall asserted that the imposition of the restitution award constituted a substantial rights violation because it places an undue burden on him that will take him years to resolve, as he is indigent and earns only four cents an hour. He also claimed that the prison officials violated his due process rights to present evidence when denying his motions and imposing punishment based on vague claims of aggravated fighting and totally unreliable evidence.

Following a *de novo* consideration of the pleadings, the district court adopted the recommendation of the Commissioner and dismissed Hall's petition with prejudice. Hall filed an application for supervisory writs with this court, which was denied by this court on November 5, 2012, on the basis that the district court's screening judgment is a final, appealable judgment. **Hall v. Louisiana Department of Safety and Corrections**, 2012-1668 (La. App. 1st Cir. 11/5/12)(unpublished).

Thereafter, Hall filed a motion for an appeal in the district court. In his brief to this court, Hall contends that the Commissioner's findings are manifestly erroneous because the record establishes that the disciplinary board also imposed on him the penalty of restitution costs for all medical expenses. He also contends that the allegations of the reporting officer do not support a finding of guilt for violating Rule 11; the evidence against him was totally unreliable; and the disciplinary court and prison officials violated his due process rights to present evidence. Further, he claims that the imposition of restitution for costs for all medical expenses placed an undue burden on him and constitutes the violation of a substantial right.

Pursuant to La. R.S. 15:1178, a court is required to conduct an initial screening review to determine if the petition for judicial review states a cognizable claim or if the petition, on its face, fails to state a cause of action. Louisiana Revised Statute 15:1177(A)(9) sets forth the standard of review to be applied by the district court in reviewing an inmate's appeal of a disciplinary decision. It provides that a court may reverse the disciplinary decision only if substantial rights of the appellant have been prejudiced because those findings 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 (f) manifestly erroneous in view of the evidence.

We have thoroughly reviewed Hall's allegations and find that his petition does not allege facts sufficient to support his claim that prison officials violated his right to due process, abused their discretion, exceeded their authority, or committed any other error of law in finding him guilty of aggravated fighting and imposing a \$25.00 restitution award for medical expenses. Furthermore, he has not alleged facts that would support a finding that the prison officials' decision was manifestly erroneous in view of the evidence. Therefore, we agree with the district court's conclusion that Hall failed to state a cognizable claim or cause of action for relief that would authorize a court to reverse or modify the disciplinary determination under La. R.S. 15:1177. See Gallow v. Stalder, 2008-0944 (La. App. 1st Cir. 12/23/08)(unpublished), writ denied, 2009-0365 (La. 11/25/09), 22 So.3d 173.

Accordingly, we affirm the screening judgment of the district court and issue this memorandum opinion in accordance with Uniform Rules-Courts of Appeal, Rule 2-16.1(B). Costs of this appeal are assessed to appellant, Andrea Hall.

AFFIRMED.