

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2013 CA 0951

WILLIE THOMAS

VERSUS

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

*Judgment Rendered: December 27, 2013*

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Appealed from the  
19th Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
Case No. C589657

The Honorable Wilson Fields, Judge Presiding

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Willie Thomas  
Angola, Louisiana

Plaintiff/Appellant  
Pro Se

Terri L. Cannon  
Baton Rouge, Louisiana

Counsel for Defendant/Appellee  
Louisiana Department of Public  
Safety and Corrections

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BEFORE: KUHN, HIGGINBOTHAM, AND THERIOT, JJ.

MT  
JEK  
WANT  
TH

## **THERIOT, J.**

In this case involving parole eligibility for a prisoner serving a life sentence for a second degree murder conviction, the prisoner appeals a screening judgment dismissing his claims. We affirm.

Willie Thomas, an inmate in the custody of the Louisiana Department of Public Safety and Corrections, filed a complaint regarding parole eligibility styled as a petition for injunctive and declaratory relief and plea of unconstitutionality. Thomas alleges that although he was sentenced in 1975 to life in prison without benefit of probation, parole, or suspension of sentence for a period of twenty years, as was required by La. R.S. 14:30.1 at the time, he “has received blanket denials on his numerous Petitions/Applications in spite of the sentence imposed by the Trial Court in accordance with law.” Thomas does not explain what types of “Petitions/Applications” he has filed or with whom. He acknowledged that he has not exhausted his administrative remedies. In response to a request for clarification issued by the trial court, Thomas explained that “the basis of his petition is **not** that the Department denied him parole eligibility, nor is it against the Parole Board, because the Department and/or the Parole Board are mandated to follow the law as written.” Rather, Thomas seeks a declaratory judgment declaring La. R.S. 15:574.4 unconstitutional as applied. Thomas argues that La. R.S. 15:574.4(B), which requires commutation of a life sentence to a fixed term before one can be parole eligible, is in direct conflict with the sentencing provision of La. R.S. 14:30.1. As a result of this conflict, Thomas alleges that La. R.S. 15:574.4 was implicitly repealed by the provision enacting La. R.S. 14:30.1, 1973 La. Acts 111, § 4, which provides that “[a]ll laws or parts of laws in conflict herewith are hereby repealed.”

Thomas raised a similar argument in a previous suit. In *State v. Thomas*, 2007-0634 (La. 1/11/08), 972 So.2d 323 (per curiam), Thomas argued that La. C.Cr.P. art. 893, which denies a trial court the authority to suspend a sentence after a defendant has begun to serve it, was implicitly repealed by the enactment of La. R.S. 14:30.1. However, the Louisiana Supreme Court determined that the sentencing provision of La. R.S. 14:30.1 and La. C.Cr.P. art. 893 did not conflict, but rather were complementary, as La. C.Cr.P. art. 893 simply added a precondition for probation on a life sentence:

When the legislature added the offense of second degree murder to the Criminal Code and provided a sentence of life imprisonment at hard labor without eligibility for parole, probation, or suspension of sentence for 20 years, 1973 La. Acts 111, it did not, by negative implication, give an inmate the right to apply for suspension of sentence and probation after serving 20 years of his life term, or repeal La. C.Cr.P. art. 893, 1966 La. Acts 310, to the extent that it expressly denies a trial court the authority to suspend a sentence after a defendant has begun to serve it. Repeals by implication are not favored in the law, *State v. Piazza*, 596 So.2d 817, 819 (La. 1992) (“[T]here is a presumption against implied repeal, based on the theory that the legislature envisions the whole body of law when it enacts new legislation.”).

*State v. Thomas*, 2007-0634, pp. 1-2 (La.1/11/08), 972 So.2d 323, 324 (per curiam).

Similarly, La. R.S. 15:574.4(B), as enacted by Acts 1968, No. 191, does not conflict with La. R.S. 14:30.1(2), as enacted by Acts 1973, No. 111. Parole eligibility is determined by the sentence meted out upon conviction, which is different from eligibility for parole consideration, as regulated by R.S. 15:574.4. See *Bosworth v. Whitley*, 627 So.2d 629, 631 (La. 1993). Thomas was convicted under La. R.S. 14:30.1 in 1975 and has been continuously in custody. Therefore, Thomas is now *eligible* for parole, but he must obtain a commutation of his sentence to a fixed number of years in accordance with La. R.S. 15:574.4 in order to be *considered* for parole. See

*State v. Henderson*, 95-0267 (La.App. 4th Cir. 4/3/96), 672 So.2d 1085, 1092, writ denied, 96-1160 (La. 10/11/96), 680 So.2d 648. As in Thomas's previous suit involving article 893, La. R.S. 15:574.4 simply added a precondition to Thomas's eligibility for parole consideration. This is not a constitutional violation, and the court did not err in dismissing his petition. See *Bosworth* 627 So.2d at 631-34.

Accordingly, we affirm the district court's judgment by this summary disposition in accordance with La. U.R.C.A. Rule 2-16.2.A.(2),(4),(5), and (6). Appeal costs are assessed against plaintiff-appellant, Willie Thomas.

**AFFIRMED.**