

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2013 CA 1390

SAMUEL HAMILTON

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

Judgment Rendered: MAY 29 2014

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Suit number C611348

Honorable Timothy E. Kelley, Presiding

Samuel Hamilton
Louisiana State Penitentiary
Angola, LA

Plaintiff/Appellant
Pro Se

Terri L. Cannon
Baton Rouge, LA

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

BEFORE: PARRO, GUIDRY, AND DRAKE, JJ.

Handwritten signatures and initials on the left side of the page. The top signature appears to be 'M. H.', followed by 'P. S.', and a larger signature that looks like 'Timothy E. Kelley'.

GUIDRY, J.

Plaintiff-appellant, Samuel Hamilton, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the Department), filed a petition for judicial review of a final agency decision in ARP No. LSP-2011-2161 in accordance with the Corrections Administrative Remedy Procedure Act, La. R.S. 15:1171, *et seq.* The Department excepted to the petition on the grounds that it was untimely under La. R.S. 15:1177, having been filed over thirty days after his receipt of notice of the final agency decision. The district court's Commissioner issued a comprehensive report detailing the administrative history of the request for administrative remedies, its underlying facts, its disposition, the applicable legal issues, and her finding and recommendation that the Department's exception raising the objection of lack of subject matter jurisdiction be sustained. Following its *de novo* review of the record, the district court adopted the Commissioner's report and its reasons for judgment and dismissed plaintiff's petition for judicial review as untimely, with prejudice.¹

From our review of the record, we find no error in the judgment of the district court dismissing plaintiff's claims with prejudice. Plaintiff does not dispute that he received the final agency decision on December 19, 2011. Plaintiff did not file this petition for judicial review of the agency's decision until February 10, 2012, which is well beyond the thirty-day period provided in La. R.S. 15:1177 within which to seek judicial review. Because plaintiff failed to timely file his petition for judicial review in the Nineteenth Judicial District Court pursuant to La.

¹ We note that plaintiff filed a traversal to the Commissioner's recommendation, asserting for the first time that he had timely filed a petition for judicial review on January 13, 2012, and attached supporting documentation. However, the traversal was untimely, having been filed more than 10 days after the transmittal of the copy of the Commissioner's findings and recommendations. See La. R.S. 13:713(C)(3); see also Vallier v. LeBlanc, 11-1880 (La. App. 1st Cir. 5/2/12) (unpublished opinion) (wherein this court interpreted "transmittal" to mean the date on which the commissioner's recommendation is mailed to the plaintiff).

R.S. 15:1177, the district court lacked subject matter jurisdiction to consider his claim.

Finding that the Commissioner's report dated March 22, 2013, and the district court's judgment adequately state our reasons for judgment, we affirm the judgment of the district court. We issue this summary opinion in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.2A(1), (2), (5), (6), and (8). All costs of this appeal are assessed to plaintiff, Samuel Hamilton.

AFFIRMED.