

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NO. 2014 CA 0980**

**JAMES B. TRUMAN**

**VERSUS**

**MONA HEYES, TOMMY GLOVER, TIMOTHY KEITH,  
LOUISIANA DEPARTMENT OF PUBLIC SAFETY  
AND CORRECTIONS**

*Judgment Rendered: December 23, 2014*

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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. C624015**

**The Honorable Janice Clark, Judge Presiding**

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**James B. Truman  
Cottonport, Louisiana**

**Plaintiff/Appellant  
In Proper Person**

**Jonathan R. Vining  
Baton Rouge, Louisiana**

**Counsel for Defendant/Appellee  
Louisiana Department of  
Public Safety and Corrections,  
Mona Heyes, Tommy Glover,  
Timothy Keith**

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**BEFORE: GUIDRY, THERIOT, AND DRAKE, JJ.**

**THERIOT, J.**

An inmate appeals the dismissal of his petition for judicial review of a disciplinary decision for failure to state a cause of action. For the reasons that follow, we affirm.

**FACTS AND PROCEDURAL HISTORY**

James B. Truman, an inmate in the custody of the Department of Public Safety and Corrections (“DPSC”) housed at Avoyelles Correctional Center, filed a petition for judicial review of prison disciplinary decision DBA #WNC-2013-173 in accordance with La. R.S. 15:1177. The only penalties received by Mr. Truman in the disciplinary decision were a loss of phone privileges and store privileges for two weeks. DPSC filed a peremptory exception raising the objection of no cause of action on the grounds that Mr. Truman’s claim does not involve a significant deprivation of his rights.

The record was reviewed by a Commissioner,<sup>1</sup> who noted that Mr. Truman was not entitled to any relief because there were no allegations that a substantial right was violated and recommended that the court dismiss Mr. Truman’s petition for failure to state a cause of action. The district court rendered judgment on April 29, 2014, dismissing Mr. Truman’s petition for judicial review with prejudice for failure to raise a substantial right violation as required by La. R.S. 15:1177(A), and thus failure to state a cause of action. Mr. Truman appealed, asserting that the district court erred in dismissing his petition for judicial review without reaching the merits of his claims.

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<sup>1</sup> The office of the Commissioner of the Nineteenth Judicial District Court was created by La. R.S. 13:711 to hear and recommend disposition of criminal and civil proceedings arising out of the incarceration of state prisoners. The Commissioner's written findings and recommendations are submitted to a district judge, who may accept, reject, or modify them. *Hakim-El-Mumit v. Stalder*, 03-2549 (La.App. 1 Cir. 10/29/04), 897 So.2d 112, 113.

## DISCUSSION

An offender aggrieved by a disciplinary action by the DPSC may seek judicial review pursuant to La. R.S. 15:1177. *Plaisance v. Louisiana State Penitentiary*, 10-1249 (La. App. 1st Cir. 2/11/11), 57 So.3d 593, 594. However, because La. R.S. 15:1177(A)(9) provides that the court can only reverse or modify the disciplinary decision if substantial rights of the appellant have been prejudiced, a petition for judicial review that does not allege facts showing a violation of the prisoner's substantial rights does not state a cause of action and must be dismissed. *Plaisance*, 10-1249 at 3-4, 57 So.3d at 595. Mr. Truman's petition for judicial review alleges that he was sentenced to a loss of two weeks of phone and store privileges for defiance. This penalty does not involve a "liberty interest" or other protected due process right, and therefore does not involve a "substantial right." See *Davies v. Stalder*, 00-0101, pp. 3-4 (La. App. 1st Cir. 6/23/00), 762 So.2d 1239, 1241. Therefore, his petition for judicial review does not state a cause of action and the district court did not err in sustaining DPSC's peremptory exception raising the objection of no cause of action. Mr. Truman's assignment of error is without merit.

## CONCLUSION

The judgment of the district court dismissing Mr. Truman's petition for judicial review for failure to state a cause of action is affirmed. Costs of this appeal are assessed to plaintiff, James B. Truman.

**AFFIRMED.**