

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2014 CA 0820

TELLY WILLIAMS

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND  
CORRECTIONS

Judgment Rendered: MAR 02 2015

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On Appeal from the  
19th Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
Trial Court No. C613441

Honorable Todd Hernandez, Judge Presiding

\* \* \* \* \*

Telly Williams  
Covington, LA

Plaintiff-Appellant,  
In Proper Person

William L. Kline  
Baton Rouge, LA

Attorney for Defendant-Appellee,  
Louisiana Department of Public  
Safety and Corrections

\* \* \* \* \*

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

atcsw  
TMH  
PME

## HIGGINBOTHAM, J.

Telly Williams, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals a judgment that affirmed DPSC's decision in an administrative remedy procedure and dismissed his petition for judicial review of that decision. We affirm the judgment.

Williams filed a petition for judicial review of the final agency decision of DPSC in Administrative Remedy Procedure No. HDQ-2012-0933, in which he challenged DPSC's denial of his "good time" eligibility.<sup>1</sup> DPSC determined that Williams was ineligible for diminution of his sentence because he was sentenced as a habitual offender. Williams contends that the district court erred in denying him good time because he does not meet all of the criteria necessary to be ineligible for good time under La. R.S. 15:571.3(C).

The version of La. R.S. 15:571.3(C) in effect at the time Williams was sentenced provides, in pertinent part, as follows:

**Diminution of sentence shall not be allowed an inmate in the custody of the Department of Public Safety and Corrections if:**

**(1) The inmate has been convicted one or more times under the laws of this state of any one or more of the following crimes:**

- (a) First degree murder.
- (b) Second degree murder.
- (c) Manslaughter.
- (d) Aggravated battery.
- (e) Aggravated rape.
- (f) Forcible rape.
- (g) Simple rape.
- (h) Aggravated kidnapping.
- (i) Aggravated burglary.**
- (j) Simple burglary.**
- (k) Armed robbery.
- (l) Simple robbery.
- (m) A violation of R.S. 14:67 which is a felony.
- (n) A violation of R.S. 14:95 which is a felony.
- (o) A violation of R.S. 14:95.1 which is a felony.

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<sup>1</sup> Diminution of sentence for good behavior, as provided in La. R.S. 15:571.3, is commonly referred to as "good time."

- (p) A violation of Chapter 9 of Title 40 of the Louisiana Revised Statutes of 1950 which is a felony.
- (q) Any crime of violence as defined by R.S. 14:2(B).
- (r) Looting during the existence of a state of emergency
- (s) A violation of the Louisiana Controlled Dangerous Substances Law which is a felony; or
- (t) Any felony which is defined as an attempt to commit one of the crimes enumerated in Subparagraphs (a) through (r) of this Paragraph, **and**

**(2) The inmate has been sentenced as an habitual offender under the Habitual Offender Law as set forth in R.S. 15:529.1, and**

**(3) The inmate's last conviction for the purposes of the Habitual Offender Law, was for a crime: (a) Committed during the period beginning September 16, 1975 through September 9, 1977, inclusive of both dates, and the sentence of the court specifically denies eligibility for diminution of sentence, or (b) committed on or after September 10, 1977.**

(Emphasis added.)

According to the record, on April 18, 2011, in the Twenty-Second Judicial District Court, Williams was convicted of simple escape and sentenced to one year at hard labor. On that day, he was also convicted of illegal possession of stolen things and sentenced to six years at hard labor. Subsequently, the state filed a multiple offender bill of information against Williams. During the hearing, the state informed the district court that in 2004 in Jackson County, Mississippi, Williams pled guilty to possession of a weapon by a convicted felon, and in 1996 also in Jackson County, Mississippi, he pled guilty to burglary. After a hearing, Williams was sentenced as a habitual offender.

Here, Williams was previously convicted of burglary, an offense enumerated in the statute<sup>2</sup>, he was sentenced as a habitual offender, and his last conviction was committed after September 10, 1977. Further, we note that DPSC can consider out-of-state convictions as predicate offenses for purposes of La. R.S. 15:571.3(C). See

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<sup>2</sup> Pursuant to an opinion issued by the state attorney general, the interpretation of La. R.S. 15:571.3 was changed to prevent habitual offenders from receiving good time if either their instant or predicate offenses were enumerated in the statute. The change in the interpretation of the statute is based on the state attorney general's opinion and **Lonzell Richards v. Louisiana Department of Corrections, et al**, 19th JDC No. 523455. See Banks v. Louisiana Dept. of Public Safety and Corrections, 2012-1722 (La. App. 1 Cir. 4/26/13) 116 So.3d 739, 743.

**Lopez v. Hebert**, 2009-1777 (La. App. 1 Cir. 4/1/10) 2010 WL 1253444, p. 1, writ denied, 2010-1158 (La. 5/27/11), 63 So.3d 991. As such, he satisfies all the criteria necessary to be ineligible for good time under La. R.S. 15:571.3(C). Thus, there was no error in the district court judgment affirming the decision of DPSC and dismissing Williams' appeal.

### **CONCLUSION**

For the foregoing reasons, the judgment of the district court is affirmed. All costs of the appeal are assessed to appellant, Telly Williams.

**AFFIRMED.**