

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2014 CA 1265

NELSON TAYLOR

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONS

DATE OF JUDGMENT: MAR 06 2015

ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT
NUMBER 620,727, SECTION 22, PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

HONORABLE TIMOTHY E. KELLEY, JUDGE

* * * * *

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BEFORE: PETTIGREW, WELCH, AND CHUTZ, JJ.

Disposition: AFFIRMED.

CHUTZ, J.

Petitioner, Nelson Taylor, an inmate in the custody of the Department of Public Safety and Corrections (DPSC), appeals a district court judgment affirming the decision of DPSC denying him relief and dismissing his petition for judicial review, with prejudice. For the following reasons, we affirm.

Mr. Taylor filed a request for administrative relief (ARP), EHCC-2012-1156, requesting that his projected good time release date be recalculated to give him credit for the full 540 days of Certified Treatment and Rehabilitation Program good time (CTRP) credits that he alleges the 2011 legislative amendment to La. R.S. 15:828(B) mandated he receive, rather than the 270 days of credit actually applied by DPSC. He was denied relief both by the institution (first step) and by the Secretary of DPSC (second step). Thereafter, he filed a petition for judicial review in the 19th Judicial District Court, reiterating his claim that he was entitled to have 540 days, rather than 270 days, deducted from his projected good time release date.¹

The matter was assigned to a Commissioner², who held a hearing to clarify Mr. Taylor's arguments and to discuss recent changes in the law regarding the maximum number of CTRP credits an inmate was allowed to earn. In particular, during the pendency of the appeal before the district court, La. R.S. 15:828(B) was again amended, by 2013 La. Acts, No. 183, § 1, to increase the maximum CTRP credits allowed from 250 days to 360 days. The Commissioner subsequently issued a report recommending that DPSC's decision be affirmed as it was not arbitrary, capricious, or manifestly erroneous and "was in accordance with the state of the law

¹ Even though the amendment to La. R.S. 15:828(B) by 2011 La. Acts, No. 186, § 3, decreased the maximum number of CTRP days allowed to inmates from 540 to 250 days, Mr. Taylor argued that, since he had already earned the maximum 540 days allowed prior to the amendment, he was entitled to have the full 540 days deducted from his projected good time release date.

² 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. 1st Cir. 10/29/04), 897 So.2d 112, 113 n.1.

at the time the Petitioner [Mr. Taylor] filed his initial grievance.” In reaching this conclusion, the Commissioner found that the amendments to La. R.S. 15:828(B) were substantive changes and, therefore, could not be applied retroactively. The Commissioner additionally concluded that the 2013 amendment to La. R.S. 15:828(B) increasing the maximum number of CTRP days allowed from 250 to 360 days “essentially allows offenders previously ‘maxed out’ at 270 CTRP credits to earn an additional 90 days CTRP credits toward the reduction of his or her good time release date.” After a *de novo* review of the record, the district court affirmed DPSC’s decision for the reasons assigned in the commissioner’s report and dismissed Mr. Taylor’s appeal, with prejudice. Mr. Taylor appealed to this court, raising two assignments of error.

On appeal, Mr. Taylor essentially abandoned his contention that he is entitled to 540 full days of CTRP credits for the CTRP he earned prior to the 2011 amendment to La. R.S. 15:828(B), rather than the 270 days actually applied by DPSC. Instead, each of Mr. Taylor’s assignments of error relates to the argument he now makes that the 2011 amendment created a new type of “earned credits” that was to be calculated differently and was separate and distinct from the “additional good time” CTRP credits allowed by La. R.S. 15:828(B) prior to the amendment. Thus, according to Mr. Taylor, he is not only entitled to the 540 days of “additional good time” (applied as 270 days by DPSC), but he also is entitled to earn an additional 360 days of “earned credits,” as created by the 2011 amendment and increased by the 2013 amendment, rather than merely the 90 days of earned credits referred to in the district’s court’s reasons for judgment.

In general, appellate courts will not consider issues raised for the first time on appeal. *Jackson v. Home Depot, Inc.*, 04-1653 (La. App. 1st Cir. 6/10/05), 906 So.2d 721, 725. Further, La. R.S. 15:1177(A)(5) specifically limits judicial review of DPSC administrative decisions to “the issues presented in the petition for review and

the administrative remedy request filed at the agency level.” In this case, the ARP Mr. Taylor filed at the agency level did not raise the issue of whether the 2011 amendment created a new species of CTRP credit separate and distinct, and in addition to, the good time CTRP credits previously allowed by La. R.S. 15:828(B). Nor did it raise, or could it have raised, the issue of the effect of the 2013 amendment to La. R.S. 15:828(B) on Mr. Taylor’s projected good time release date, since that amendment had not occurred at the time that his APR was filed at the agency level. Accordingly, because Mr. Taylor did not raise these issues at the agency level, they are not properly before this court for review. See La. R.S. 15:1177(A)(5); *Deemer v. Ramsey*, 08-1661 (La. App. 1st Cir. 2/13/09) (unpublished), writ denied, 09-0808 (La. 1/29/10), 25 So.3d 827. Since Mr. Taylor has raised no other issues for this court’s review, the judgment of the district court will be affirmed.

CONCLUSION

For the foregoing reasons, the judgment of the district court affirming DPSC’s decision and dismissing Mr. Taylor’s appeal therefrom is affirmed. Mr. Taylor is to pay all costs of the instant appeal.

AFFIRMED.