

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2015 CA 0461

HENNESSY CHRISTOF

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONS

DATE OF JUDGMENT:

ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT
NUMBER C633276, DIVISION D, PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

HONORABLE JANICE CLARK, JUDGE

Hennessy Christof
Angola, Louisiana

Plaintiff-appellant
Pro Se

William L. Kline
Baton Rouge, Louisiana

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

BEFORE: GUIDRY, HOLDRIDGE, AND CHUTZ, JJ.

Disposition: AFFIRMED.

CHUTZ, J.

Plaintiff-appellant, Hennessy Christof, an inmate in the custody of the Department of Public Safety and Corrections (DPSC), appeals the district court's judgment dismissing, without prejudice and without service on the DPSC defendants, Christof's petition for judicial review seeking damages for alleged false imprisonment. For the reasons that follow, we affirm.

According to the allegations of his petition, Christof was convicted in East Baton Rouge Parish of second degree murder under the provisions of La. R.S. 14:30.1. He avers that he is serving a life sentence plus twenty years without the benefit of parole, probation, or suspension of sentence. He maintains that his custody and the warrant of commitment to the penitentiary are unconstitutional under La. Const. art. III, §14, which mandates the style of a law enacted by the legislature shall be, "Be it enacted by the Legislature of Louisiana." Asserting that neither La. R.S. 14:30.1 nor La. R.S. 15:824 (providing the procedure for the commitment of persons to DPSC's custody) recites the requisite enacting language "[b]ecause ... the entire delegates walked out of Congress in 1861," Christof maintains that his custody is unconstitutional.¹ Thus, he claims he has been falsely imprisoned and is entitled to damages.

A commissioner for the district court issued a screening report that recommended that his petition for judicial review of his claim for damages for false imprisonment be dismissed because Christof failed to state a cognizable claim for which relief could be granted. The district court judge signed a screening judgment in conformity with the commissioner's recommendation from which Christof has appealed.

¹ But see and compare 2009 La. Acts No. 155, § 1, amending and reenacting La. R.S. 14:30.1, as well as 2008 La. Acts No. 638, § 1, eff. July 1, 2008, 2008 La. Acts No. 730, § 1, and 2014 La. Acts No. 652, § 1, eff. July 1, 2014, amending and reenacting La. R.S. 15:824, in which each Act states, "Be it enacted by the Legislature of Louisiana."

A defendant convicted of a crime triable by a jury may, as of right, appeal the judgment or verdict to the appropriate court of appeal. See La. Const. art. V, § 10; La. C.Cr.P. art. 912.1B. Moreover, a person in custody after sentence following conviction for the commission of an offense may file an application for post-conviction relief seeking to have the conviction and sentence set aside. See La. C.Cr.P. art. 924. An application for post-conviction relief is properly addressed to the district court for the parish in which the petitioner was convicted. See La. C.Cr.P. art. 926. Post-conviction relief shall be granted when the conviction was obtained in violation of the constitution of the United States or the state of Louisiana. See La. C.Cr.P. art. 930.3(1). Accordingly, Christof's claims are properly addressed by a timely appeal or post-conviction relief application rather than a petition for judicial review of administrative remedies. The district court correctly concluded that Christof failed to state a cognizable claim for which relief could be granted on this basis. See La. R.S. 15:1178B, 1184B and 1188A.

To the extent that Christof's pleading can be read to assert a delictual claim of false imprisonment, the exclusive venue for relief based on delictual actions is the parish where the prison is situated to which the prisoner was assigned when the cause of action arose. See La. R.S. 15:1184F. Such a claim must be asserted as an original civil action in the district court, see La. R.S. 15:1177C, and only after the inmate has exhausted administrative remedies. La. R.S. 15:1172B. Because Christof is not incarcerated in East Baton Rouge Parish² and has not established that he pursued any administrative remedies, the district court correctly determined that Christof failed to state a cognizable claim for which delictual relief could be granted and dismissed Christof's petition, without prejudice, on this basis as well.

² When a prisoner files such a suit in an improper venue, the court may raise the exception of improper venue on its own motion and dismiss the suit. See La. R.S. 15:1184B.

DECREE

For these reasons, the district court screening judgment, dismissing Christof's claims filed as a petition for judicial review is affirmed. Appeal costs are assessed against plaintiff-appellant, Hennessy Christof.

AFFIRMED.