

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2015 CA 0544

CHARLIE BALL

VERSUS

**LOUISIANA DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONS**

Judgment Rendered: NOV 06 2015

**Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Docket Number C614882**

Honorable Janice Clark, Judge Presiding

**Charlie Ball
Angola, LA**

Plaintiff/Appellant, *pro se*

**Terri L. Cannon
Angola, LA**

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

BEFORE: WHIPPLE, C. J., WELCH AND DRAKE, JJ.

WHIPPLE, C. J.

In this appeal, an inmate challenges the district court's judgment dismissing his petition for judicial review of his lost property claim. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

Charlie Ball, an inmate in the custody of the Louisiana Department of Public Safety and Corrections ("the DPSC") and housed at the Louisiana State Penitentiary, initiated a lost property claim under the Corrections Administrative Remedy Procedure ("CARP"). LSA-R.S. 15:1171, *et seq.* In his lost property claim, Ball averred that on January 18, 2012, a prison official entered his cell and took various items of his personal property consisting of magazines and books. His claim, assigned number LSP-2012-0379, was denied at both levels of administrative review.

Ball then filed a petition for judicial review, seeking review of the denial of his lost property claim. The district court, adopting the commissioner's recommendation, affirmed the DPSC's decisions and dismissed Ball's petition for judicial review, with prejudice. From this judgment, Ball appeals.

DISCUSSION

Judicial review of inmate lost property claims is governed by LSA-R.S. 15:1177 of CARP. See Vincent v. State, Department of Public Safety and Corrections, 2002-2444 (La. App. 1st Cir. 6/6/03), 858 So. 2d 494, 497. Accordingly, a reviewing court may reverse or modify an administrative decision only if substantial rights of the appellant have been prejudiced because the administrative decisions or findings are: (1) in violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the agency; (3) made upon unlawful procedure; (4) affected by other error

of law; (5) arbitrary, capricious, or characterized by an abuse of discretion; or (6) manifestly erroneous in view of the reliable, probative, and substantial evidence on the whole record. LSA-R.S. 15:1177(A)(9). On review of a district court's judgment in a suit for judicial review under LSA-R.S. 15:1177, no deference is owed by the court of appeal to the factual findings or legal conclusions of the district court, just as no deference is owed by the Louisiana Supreme Court to factual findings or legal conclusions of the court of appeal. McCoy v. Stalder, 99-1747 (La. App. 1st Cir. 9/22/00), 770 So.2d 447, 450-451.

The administrative record demonstrates that on the date of Ball's alleged loss, he was in administrative segregation. Ball was placed in administrative segregation on November 14, 2011, where he remained until January 23, 2012. As a result of Ball's placement in a cell in administrative segregation, his personal items were placed in storage, also on November 14, 2011. As such, while Ball was in administrative segregation, he was not eligible to receive these types of personal items by mail. When Ball was transferred out of administrative segregation on January 23, 2012 (after the date of the alleged loss), his property was returned to him from storage, he signed an acknowledgement that the tamper-proof seal was intact, and he did not report any missing property.

Furthermore, Ball's contention that a prison official took his property on January 18, 2012, during a "shakedown" was disputed by the prison official. The official further noted that the items Ball claimed to be missing are not allowed in administrative segregation and that if those items were found in Ball's possession while in administrative segregation, the items would have been confiscated. As noted by the commissioner, the Secretary of the DPSC found no reason to doubt the credibility of the officer.

Additionally, as further noted by the commissioner, with regard to the events that occurred on the date of Ball's claimed loss, the administrative record contains disciplinary reports of an incident involving Ball that day wherein Ball was charged with Aggravated Disobedience, and these reports make no mention of the presence of any such property or of any property being confiscated from Ball.

Based on our review of the administrative record, we conclude that the documentary evidence and statements of the officers involved do not support Ball's claim. Moreover, resolution of this claim involves, in part, a credibility call. Given that the record supports the Secretary's decision, we cannot say that decision, which the district court affirmed, is manifestly erroneous. See generally Curry v. Cain, 2005-2251 (La. App. 1st Cir. 10/6/06), 944 So. 2d 635, 639.

CONCLUSION

For the above and foregoing reasons, the district court's December 15, 2014 judgment, affirming the DPSC's decision and dismissing Ball's petition for judicial review, is hereby affirmed. We decline to assess costs.

AFFIRMED.