

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2015 CA 0969

LATOYA ANDERSON

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

Judgment Rendered: DEC 23 2015

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Suit Number C632978

Honorable Janice Clark, Presiding

Latoya Anderson
St. Gabriel, LA

Plaintiff/Appellant
Pro Se

William L. Kline
Baton Rouge, LA

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

BEFORE: GUIDRY, HOLDRIDGE, AND CHUTZ, JJ.

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GUIDRY, J.

Petitioner, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (Department) housed at the Louisiana Correctional Institute for Women (LCIW), appeals the dismissal of her petition for judicial review based upon a lack of subject matter jurisdiction. For the reasons that follow, we affirm.

FACTS AND PROCEDURAL HISTORY

On July 1, 2013, petitioner filed an administrative remedy procedure (ARP) request, asserting that on June 16, 2013, she was struck repeatedly by her roommate with a hot iron and LCIW failed to protect her. The Department issued a first-step response on August 7, 2013, finding that petitioner had failed to substantiate her claim and, consequently, denied her request for remedy. Thereafter, petitioner filed a petition for judicial review in the district court.

A Commissioner assigned by the district court to review the matter issued a screening recommendation, finding that the petitioner had failed to exhaust her administrative remedies pursuant to La. R.S. 15:1171, 15:1172 and 15:1176, and as such, the district court lacked subject matter jurisdiction. Accordingly, the Commissioner recommended that petitioner's petition for judicial review be dismissed without prejudice. Thereafter, the district court signed a judgment in conformity with the Commissioner's recommendation. Petitioner now appeals the district court's judgment.

DISCUSSION

Procedures set out in the Corrections Administrative Remedy Procedure (CARP) provide the exclusive remedy available to inmates for claims seeking monetary, injunctive, declaratory, or any other form of relief authorized by law in actions based upon conditions of confinement, personal injuries, medical malpractice, time computations, or challenges to rules, regulations, policies, or statutes. La. R.S. 15:1171(B). The rules and procedures promulgated by the

Department pursuant to the authority granted to it in La. R.S. 15:1171 are set forth in Section 325 of Title 22, Part I of the Louisiana Administrative Code. Pursuant to these rules, inmates must first exhaust a two-step ARP before they can proceed with a suit in federal or state court. Collins v. Vanny, 14-0675, p. 3 (La. App. 1st Cir. 1/15/15), 169 So. 3d 405, 406; see also La. R.S. 15:1176; LAC 22:I.325F(3)(a)(viii).

The district court is precluded from entertaining an inmate's ARP request until she has exhausted the remedies provided to her by the ARP process. Harper v. Louisiana Department of Public Safety and Corrections, 14-1320, p. 4 (La. App. 1st Cir. 3/12/15), 166 So. 3d 1078, 1080; see La. R.S. 15:1172(B) and (C). If a suit is filed prior to exhaustion of administrative remedies, the district court lacks jurisdiction over the matter, and the suit shall be dismissed without prejudice. See La. R.S. 15:1184(A)(2) and La. R.S. 15:1172(C); Harper, 14-1320 at p. 4, 166 So. 3d at 1080.

In the instant case, the record indicates that petitioner filed an ARP request and received a first step response from the Department. However, there is no indication in the record that petitioner sought relief beyond the first step.¹ Because petitioner failed to exhaust her remedies under the two-step ARP process, the district court lacked subject matter jurisdiction to consider her petition for judicial review. As such, we find no error in the district court's judgment dismissing petitioner's petition for judicial review without prejudice.

¹ Petitioner asserts in her petition for judicial review that she was not satisfied with the Department's first-step response and filed a second-step request. However, the record is devoid of any evidence supporting this assertion. Petitioner did not indicate on her first-step response form that she was not satisfied with the Department's response and wished to proceed to the second-step, nor is there any other evidence that a second-step request was sought.

CONCLUSION

For the foregoing reasons, we affirm the judgment of the district court. All costs of this appeal are assessed to petitioner, Latoya Anderson.

AFFIRMED.