

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2015 CA 1616

JAMES TRUMAN

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

Judgment Rendered: DEC 15 2016

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Suit Number C631670

Honorable Janice Clark, Presiding

James B. Truman
Angola, LA

Plaintiff/Appellee
Pro Se

Debra Rutledge
Baton Rouge, LA

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

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

WJH
JR
DMC

GUIDRY, J.

Defendant/Appellant, Louisiana Department of Public Safety and Corrections (Department), appeals from a judgment of the district court awarding plaintiff, James Truman, \$1,100.65 as shown in his lost property claim. For the reasons that follow, we vacate the district court's judgment and remand.

FACTS AND PROCEDURAL HISTORY

James Truman is an inmate in the custody of the Department confined to the Louisiana State Penitentiary at Angola, Louisiana. On March 26, 2014, while housed at Avoyelles Correctional Center, Truman was written up for fighting and was transferred to the Restricted Housing Area (RHA). During the fight, items were taken out of Truman's cell. Once Truman was placed in RHA, correctional officers placed the remaining property from Truman's cell in bags, inventoried the contents, and sealed the bags. Each officer signed the inventory form.

Thereafter, when Truman was released from RHA, the three, sealed bags were returned to Truman. At that time, Truman signed the inventory form acknowledging receipt of the bags and their contents. However, on April 3, 2014, Truman initiated a lost property claim under the Corrections Administrative Remedy Procedure (CARP), La. R.S. 15:1171, *et seq.* In his claim, Truman asserted that various other property, including clothes, eyewear, audio and canteen items totaling an estimated \$906.62, was removed from his cell during the altercation on March 26, 2014. In support of his claim, Truman attached his own itemized list, as well as a receipt for the canteen items.

Following an investigation into Truman's lost property claim, the Warden for Avoyelles Correctional Center (Warden) issued a first-step response. In his response, the Warden acknowledged that, as verified by Captain Steven Bordelon, certain canteen items were stolen from Truman on the date of the altercation totaling \$38.04 and approved Truman's lost property claim as to those items.

However, the Warden denied Truman's claim as to the remaining items, finding that Truman had failed to provide evidence to support his claim of additional missing items. Dissatisfied with the Warden's decision, Truman appealed to the Secretary of the Department, who concurred with the findings of the Warden. The Department thereafter forwarded an agreement to Truman, offering to give Truman \$38.04 in full settlement for the verified missing canteen items. However, Truman refused to sign the agreement.

Consequently, on June 30, 2014, Truman filed a petition for judicial review of the Secretary's decision in the Nineteenth Judicial District Court. In conjunction with his petition for judicial review, Truman also filed for the first time documentation, including inventory forms from his initial arrival at Avoyelles Correctional Center, in support of his lost property claim. These inventory forms, however, had not been made part of the administrative record.

Thereafter, on August 31, 2015, the district court held a status conference to discuss Truman's pending motions to recuse the Commissioner and counsel for the Department. After denying the motions to recuse, the district court heard argument from the parties regarding the merits of Truman's petition for judicial review. During this "status conference," Truman estimated that the value of his lost property was \$1,160.85, an increase from the \$906.62 originally claimed. At the conclusion of arguments, the district court accepted the inventory forms submitted by Truman into evidence and, considering the additional evidence, found that the Department's decision denying Truman's lost property claim was arbitrary and capricious. The district court subsequently signed a judgment in conformity with its ruling, granting Truman relief "as prayed for ... in his Petition for Judicial Review in the amount of ~~\$906.62~~, \$1,100.65 as shown on his Loss Property Claim filed with the Department."

The Department now appeals from the district court's judgment, asserting that the district court erred in considering evidence that was not part of the administrative record in finding that the Department was arbitrary and capricious.

DISCUSSION

Judicial review of inmate lost property claims is governed by La. R.S. 15:1177 of CARP. Curry v. Cain, 05-2251, p. 4 (La. App. 1st Cir. 10/6/06), 944 So. 2d 635, 638. Under the statutory scheme provided by CARP, judicial "review is confined to oral argument (which the court has discretion to grant or deny), based on the record made up in the administrative remedy proceeding, although the court may order that additional evidence be taken." Pope v. State, 99-2559, p. 6 (La. 6/29/01), 792 So. 2d 713, 716 (footnote omitted). Under CARP, judicial review is also limited to the issues presented in the petition for judicial review and the administrative request filed at the agency level. La. R.S. 15:1177(A)(5).

A reviewing court may affirm the decision of the agency or remand the case for further proceedings, or order that additional evidence be taken. La. R.S. 15:1177(A)(8). A reviewing court, however, may only reverse or modify an administrative decision 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 or law; (5) arbitrary, capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion; or (6) manifestly erroneous in view of the reliable, probative, and substantial evidence on the whole record. La. R.S. 15:1177(A)(9); Curry, 05-2251 at pp. 4-5, 944 So. 2d at 638.

In the instant case, Truman submitted original arrival inventory sheets documenting ownership of the alleged lost property items in conjunction with his petition for judicial review in the district court. However, Truman had failed to

submit these items at the administrative level for consideration by the Department in investigating his lost property claim. Under the statutory framework established by CARP, the district court functions like an appellate court. As such, the opportunity for the parties to present evidence occurs at the administrative level, and review by the district court is limited to the record established at the administrative level, absent alleged irregularities in the procedure. Robinson v. Stalder, 98-0558, p. 4 (La. App. 1st Cir. 4/1/99), 734 So. 2d 810, 812. Accordingly, because the inventory sheet submitted by Truman in the district court was not made part of the administrative record, the district court erred and exceeded its authority under CARP by expanding the record and allowing evidence to be introduced at the district court level. Curry, 05-2251 at p. 6, 944 So. 2d at 639.

Therefore, because the district court erred in expanding the record, we remand this matter to the district court with instructions to remand this matter to the administrative level for the limited purpose of allowing Truman to introduce the inventory sheets into evidence and for reconsideration at the administrative level of Truman's claim in light of this additional evidence. See La. R.S. 15:1177(A)(8); Curry, 05-2251 at p. 6, 944 So. 2d at 639.

CONCLUSION

For the foregoing reasons, we vacate the district court's judgment and remand this matter for the limited purpose expressed in this opinion. All costs of this appeal in the amount of \$1,101.50 are to be assessed equally between the parties.

JUDGMENT VACATED AND REMANDED.