

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NO. 2016 CA 0136**

**COINDELL BRYANT**

**VERSUS**

**LOUISIANA DEPARTMENT OF PUBLIC  
SAFETY AND CORRECTIONS**

*Judgment Rendered:* **OCT 31 2016**

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**Appealed from the  
19th Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
Case No. C637370**

**The Honorable Donald R. Johnson, Judge Presiding**

\* \* \* \* \*

**Coindell Bryant  
Cottonport, Louisiana**

**Plaintiff/Appellant  
Pro Se**

**William L. Kline  
Baton Rouge, Louisiana**

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

\* \* \* \* \*

**BEFORE: HIGGINBOTHAM, THERIOT, AND CHUTZ, JJ.**

*mt.*  
*IMH*  
*g*

## **THERIOT, J.**

The appellant, Coindell Bryant, appeals the final judgment of the Nineteenth Judicial District Court that dismissed his petition for judicial review without prejudice. For the following reasons, we affirm.

### **FACTS AND PROCEDURAL HISTORY**

On February 25, 2015, Bryant, an inmate of appellee, the Louisiana Department of Public Safety and Corrections (LDPSC), filed a petition for judicial review in the 19<sup>th</sup> JDC. Bryant claimed that LDPSC denied him participation in the work release program although he was eligible. Bryant also claimed that he had filed an administrative remedy procedure request (ARP) with the facility in which he was housed and the claim was denied. The ARP is not attached to the petition for judicial review and is not included in this record.<sup>1</sup>

The district court issued an order for compliance with its local rules on March 18, 2015, giving Bryant fifteen days from issuance to provide written proof of exhaustion of the administrative remedy procedures. Bryant failed to do so, and on May 13, 2015 the district court commissioner recommended that the petition be dismissed without prejudice for lack of subject matter jurisdiction based on the failure to exhaust all remedies pursuant to La. R.S. 15:1172(C)<sup>2</sup> and La. R.S. 15:1176.<sup>3</sup> The district court adopted the commissioner's report as reasons for its judgment and dismissed the petition without prejudice on June 23, 2015.

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<sup>1</sup> Bryant has included in his brief an ARP designated with the same number as the ARP described in the petition for judicial review; however, an appellate court may not consider evidence which is outside of the record. See La. C.C.P. art. 2164; *Tranum v. Hebert*, 581 So.2d 1023, 1026 (La. App. 1 Cir.), writ denied, 584 So.2d 1169 (La. 1991).

<sup>2</sup> "If at the time the petition is filed the administrative remedy process is ongoing but has not yet been completed, the suit shall be dismissed without prejudice." La. R.S. 15:1172(C).

<sup>3</sup> "Before any cause of action may be heard in any state or federal court, administrative remedies must be exhausted under the procedure authorized by this Part." La. R.S. 15:1176.

On July 30, 2015, Bryant sought supervisory writs on the district court's judgment. This Court found the district court's judgment to be final and appealable, and therefore remanded the case to the district court with an instruction that Bryant be granted an appeal in the instant matter.<sup>4</sup>

### DISCUSSION

Bryant did not state an assignment of error, but it is clear from his brief and the record that he disputes the district court's dismissal of his petition for judicial review without prejudice.

Jurisdiction over the subject matter is the legal power and authority of a court to hear and determine a particular class of actions or proceedings based upon the object of the demand, the amount in dispute, or the value of the right asserted. La. C.C.P. art. 2; *IberiaBank v. Live Oak Circle Development, L.L.C.*, 2012-1636 (La. App. 1 Cir. 5/13/13), 118 So.3d 27, 30. The lack of subject matter jurisdiction can be recognized by the court at any time, with or without formal exception. La. C.C.P. art. 3; *IberiaBank*, 118 So.3d at 30.

The scope of review of the district court is limited to what is included in the record. La. R.S. 15:1177(A)(5). The record does not include an ARP petition that should have preceded the petition for judicial review. Such a petition would show that Bryant's administrative remedy process has been exhausted. Thus, the district court did not have subject matter jurisdiction over this case. Based on La. R.S. 15:1172(C), the district court was correct to dismiss the petition for judicial review without prejudice, since there is no proof in the record that Bryant has exhausted his administrative remedies with LDPSC.

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<sup>4</sup> See *Bryant v. Louisiana Department of Public Safety and Corrections*, 2015-CW-1549 (La. App. 1 Cir. 12/18/15) (unpublished writ action).

**DECREE**

The judgment of the 19<sup>th</sup> JDC, dismissing the petition for judicial review without prejudice, is affirmed. All costs of this appeal are assessed to the appellant, Coindell Bryant.

**AFFIRMED.**