

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NO. 2016 CA 0327**

**SOLOMON COLEMAN**

**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. C632455**

**The Honorable Todd Hernandez, Judge Presiding**

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**Solomon Coleman  
Angola, Louisiana**

**Plaintiff/Appellant  
Pro Se**

**Terri L. Cannon  
Angola, Louisiana**

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

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

*MT*  
*TUH*  
*J*

## **THERIOT, J.**

The appellant, Solomon Coleman, appeals the judgment of the Nineteenth Judicial District Court (19<sup>th</sup> JDC) that dismissed his appeal for judicial review of the administrative decision of the Louisiana Department of Public Safety and Corrections (LDPSC). For the following reasons, we affirm.

### **FACTS AND PROCEDURAL HISTORY**

Mr. Coleman, an inmate of Louisiana State Penitentiary, seeks judicial review of a disciplinary action taken against him by the prison's administration. The action stems from an incident on October 27, 2013 whereby Mr. Coleman allegedly got into a fight with another inmate. After the prison officials investigated the incident, Mr. Coleman was sentenced on December 6, 2013 to a custody change to the maximum-working cell block.

Mr. Coleman appealed the decision to LDPSC's disciplinary board office. LDPSC denied the appeal. In its decision for denying the appeal, LDPSC noted that Mr. Coleman did not deny that a fight occurred, but did deny his involvement. LDPSC further noted that Mr. Coleman was afforded due process by being given a full hearing where he presented his account of the incident. Based on the disciplinary report, LDPSC agreed with the prison's disciplinary action and affirmed Mr. Coleman's sentence as appropriate.

Mr. Coleman filed a petition for judicial review by the 19<sup>th</sup> JDC. In response, LDPSC filed an exception of lack of subject matter jurisdiction alleging that the prison's disciplinary action did not violate a "substantial right" of Mr. Coleman's, and therefore no appealable issue was before the district court. The commissioner of the district court found that no violation of Mr. Coleman's substantial rights had occurred, and recommended to the

district court that Mr. Coleman's appeal be dismissed with prejudice. The district court adopted the commissioner's recommendation, and signed a judgment reflecting same on March 19, 2015. Mr. Coleman now appeals the judgment of the district court.

### **ASSIGNMENT OF ERROR**

Mr. Coleman's short, handwritten brief does not assign any errors to the district court; however, it is clear from the brief that Mr. Coleman desires to have the prison's disciplinary action reversed.

### **DISCUSSION**

Louisiana Revised Statutes 15:1177 governs the judicial review of administrative acts against inmates by LPDSC. Specifically, La. R.S. 15:1177(A)(9) states:

The court may reverse or modify the decision only if *substantial rights* of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional or statutory provisions.
- (b) In excess of the statutory authority of the agency.
- (c) Made upon unlawful procedure.
- (d) Affected by other error of law.
- (e) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.
- (f) Manifestly erroneous in view of the reliable, probative and substantial evidence on the whole record. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by firsthand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues. (Emphasis added)

At issue in this appeal is whether a change in an inmate's custody is a constitutionally protected "substantial right" which is reviewable under the statute. This Court has already determined that a change in custody status is not atypical or a significant hardship in relation to the ordinary incidents of prison life. *Parker v. LeBlanc*, 2002-0399 (La. App. 1 Cir. 2/14/03), 845

So.2d 445, 446. The Due Process Clause does not protect every change in the conditions of confinement having a substantial impact on the prisoner. *Id.*, quoting *Sandin v. Conner*, 515 U.S. 472, 478, 115 S.Ct. 2293, 2297, 132 L.Ed.2d 418 (1995). As Mr. Coleman’s change in custody status does not rise to the level of a “substantial right” violation, the district court did not have jurisdiction under La.R.S. 15:1177 to review LDPSC’s administrative decision. See *Carthan v. Louisiana Dept. of Public Safety and Corrections*, 2015-0102 (La. App. 1 Cir. 4/15/16), 2016 WL 1535202 (unpublished). LDPSC’s exception of lack of subject matter jurisdiction was properly granted; thus, Mr. Coleman’s petition for judicial review was properly dismissed.

#### **DECREE**

The judgment of the 19<sup>th</sup> JDC dismissing Solomon Coleman’s petition for judicial review with prejudice is affirmed. All costs of this appeal are assessed to the appellant, Solomon Coleman.

**AFFIRMED.**