

STATE OF LOUISIANA  
COURT OF APPEAL  
FIRST CIRCUIT

2017 CA 0384

PATRICK STRAUGHTER

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS

Judgment rendered NOV 01 2017

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On Appeal from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
No. C641241 Sec. 26

The Honorable Donald Johnson, Judge Presiding

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Patrick Straughter  
Louisiana State Penitentiary  
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**BEFORE: HIGGINBOTHAM, HOLDRIDGE, PENZATO, JJ.**

CA  
akp  
JMH

**HOLDRIDGE, J.**

Patrick Straughter, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals a judgment dismissing his petition for judicial review on the basis that the petition failed to state a cause of action or a cognizable claim for which relief is available in the district court. We affirm.

**FACTUAL AND PROCEDURAL BACKGROUND**

In 1996, Straughter, who had been tried on the charge of aggravated rape, was found guilty by a jury of the lesser included charge of forcible rape. Straughter was sentenced by the Criminal District Court for the Parish of Orleans to serve 40 years imprisonment at hard labor. Thereafter, Straughter pled guilty to a habitual offender bill and was sentenced by that court to 60 years imprisonment at hard labor.

In January 2015, Straughter filed administrative remedy procedure LSP-2015-0235, wherein he challenged the constitutionality of the forcible rape statute and the legality of the custody order under which he was imprisoned. Straughter insisted that the forcible rape statute is unconstitutionally vague because it does not inform a reasonable person that sexual intercourse with a person under the age of twelve is a crime in the State of Louisiana. He also argued that the forcible rape statute failed to provide a specific punishment guideline for offenders found guilty of having sexual intercourse with a victim under the age of twelve. Straughter contended that because the statute he was found guilty of violating is unconstitutional, the district court imposed an illegal sentence on him, thereby causing DPSC to illegally detain him under a void commitment. He demanded an “immediate release from his oppression.”

DPSC denied Straughter’s request for relief at the first step for these reasons: (1) Straughter’s master prison record had been reviewed regarding the

validity of his sentence, (2) Straughter had been validly committed to DPSC, and (3) Straughter's sentence was within the parameter of the Habitual Offender Law. Straughter's request for relief was also denied at the second step on the basis that his concerns were adequately addressed by the first step response.

Straughter filed a petition for judicial review of the administrative decision in the Nineteenth Judicial District Court for the Parish of East Baton Rouge, in which he again attacked the constitutionality of the forcible rape statute and the legality of his detention.<sup>1</sup> A commissioner assigned to review the appeal found that the petition failed to state a cause of action or cognizable claim for which relief is available in the district court and recommended that the matter be dismissed without prejudice. The commissioner noted that all of Straughter's complaints challenged the validity of the indictment proceedings and ultimate sentence. The commissioner concluded that the district court lacked jurisdiction to hear the complaint as a civil proceeding, stressing that the proper procedure for Straughter to challenge his sentence was by a motion for post-conviction relief or an appeal of his sentence. The district court adopted the commissioner's recommendation and reasons as its own in dismissing Straughter's appeal without prejudice.

Straughter appealed, insisting that he is not challenging his conviction or sentence, but is challenging the DPSC's authority to detain him. Again, Straughter submits that his detention is illegal because the forcible rape statute is unconstitutionally vague, and he contends that the failure of the district court to grant him declaratory relief constitutes a denial of his right to procedural due process.

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<sup>1</sup> In the petition, Straughter also claimed that he was seeking to have an illegal detainer removed from the Sheriff of Orleans Parish's computer relating to a 1995 trial for the crime of simple burglary, which resulted in a hung jury. The commissioner's report does not address this allegation specifically and Straughter has not re-urged this claim in this appeal.

We agree that DPSC and the district court lacked jurisdiction to grant Straughter's demand for relief. Straughter is attempting to utilize the administrative remedy procedure to attack his conviction and the sentence imposed by an Orleans Parish Criminal District Court. However, it is well settled that prisoners may not use civil proceedings to collaterally attack previous criminal convictions. **El-Mumit v. Fogg**, 1988-0356 (La. App. 1 Cir. 9/28/17), \_\_\_ So.3d \_\_\_\_; **Williams v. Harding**, 2012-1595 (La. App. 1 Cir. 4/26/13), 117 So.3d 187, 191. DPSC and the district court clearly had no authority to review the constitutionality of Straughter's conviction and sentence and correct any error therein through the administrative remedy procedure. See **Boddye v. La. Dept. of Corrections**, 2014-1836 (La. App. 1 Cir. 6/26/15), 175 So.3d 437, 441-42, writ denied, 2015-1688 (La. 10/30/15), 180 So.3d 303. Therefore, the district court correctly dismissed Straughter's petition for failing to state a cause of action or a cognizable claim for which relief is available in the district court.

#### **CONCLUSION**

For the foregoing reasons, the judgment appealed from is affirmed. All costs of this appeal are assessed to appellant, Patrick Straughter.

**AFFIRMED.**