

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**NO. 2018CA1161**

**DERRICK JEROME ALLEN**

**VERSUS**

**LOUISIANA DEPARTMENT OF  
PUBLIC SAFETY AND CORRECTIONS**

*WILSON  
JEW*

*Judgment Rendered: May 31, 2019*

\*\*\*\*\*

**Appealed from the 19<sup>th</sup> Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
Docket No. C654207  
Honorable Todd Hernandez, Judge Presiding**

\*\*\*\*\*

**Derrick Jerome Allen  
Louisiana State Penitentiary  
Angola, Louisiana**

**Plaintiff/Appellant  
Pro Se**

**Heather Hood  
Angola, Louisiana**

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

\*\*\*\*\*

**BEFORE: WELCH, CHUTZ, AND LANIER, JJ**

**DISPOSITION: AFFIRMED**

*Chutz, J. Concurs*

**LANIER, J.**

Petitioner, Derrick Jerome Allen, an inmate in the custody of the Louisiana Department of Public Safety and Corrections ("DPSC"), appeals a judgment affirming DPSC's final agency decision rendered under Administrative Remedy Procedure ("ARP") No. LSP-2016-2113 and dismissing the claims alleged in his petition for judicial review. For the reasons that follow, we affirm.

**DISCUSSION**

On June 28, 2016, Mr. Allen was injured when he was knocked over by a horse while walking in line with other inmates. According to the record, DPSC acknowledged that as Master Sergeant Becky Meredith was riding her assigned mount and working as a line pusher, her horse became startled. The horse then accidentally bumped Mr. Allen on his right shoulder, and Mr. Allen fell to the ground. Mr. Allen was immediately checked by medical staff and then transported to the treatment facility for further testing. Mr. Allen complained of pain in his left shoulder/arm, lower back, and right knee. However, Mr. Allen's physical exam revealed that he was able to stand without difficulty and move his left arm and shoulder. Moreover, Mr. Allen had no bruising, no open wounds, and no trauma to his right knee. X-rays of Mr. Allen were also taken, showing only mild arthritis in his right knee, but no acute injury related to the incident. Mr. Allen was given medicine for the pain and placed on "no duty" for four days.

Following this incident, Mr. Allen initiated an ARP, seeking, among other things, that he receive outside medical treatment; that Master Sergeant Meredith be investigated, drug tested, and charged with attempted second degree murder, malfeasance in office, and filing false public records; that he be awarded punitive and compensatory damages; and that he not be retaliated against for filing the

ARP.<sup>1</sup> Mr. Allen's request was reviewed and denied at the first and second steps. Having exhausted his administrative remedies, Mr. Allen filed a petition for judicial review in the Nineteenth Judicial District Court. The matter was then referred to a commissioner<sup>2</sup> for review pursuant to La. R.S. 15:1188, who recommended to the district court judge that DPSC's decision be affirmed and that Mr. Allen's petition be dismissed, without prejudice. Mr. Allen timely filed a traversal of that recommendation, reiterating his arguments to the court. On May 24, 2018, the district court signed a judgment, affirming DPSC's decision and dismissing, without prejudice, Mr. Allen's petition for judicial review. This appeal by Mr. Allen followed.

In recommending that DPSC's decision be affirmed, the commissioner offered the following findings:

My review of the record, to which this Court is limited, indicates that the prison administration has made reasonable efforts to accommodate the Petitioner's medical condition, in that they treated him with urgency, immediately after the accident, and took precautions to ensure that there were no broken bones or dislocated joints. There is no evidence in the record to indicate that the Petitioner has suffered any lasting physical effects from the accident.

The Petitioner's argument appears to be that the Defendants are in reckless disregard of his health not allowing him to see outside medical providers. However, my review of the record does not result in a finding that the administration has committed any violation of the Petitioner's constitutional rights and that it has been arbitrary or manifestly erroneous in its denial of relief. On the contrary, according to the medical reports in the record, medical opinion is that the petitioner received no injuries that required anything more than the pain relief and the rest days as given.

---

<sup>1</sup> Mr. Allen initially filed his complaint with the Governor's office as a Sensitive/Emergency ARP. However, the Governor's office declined to consider the grievance as sensitive or emergency in nature and forwarded same to the prison's ARP screening officer for handling.

<sup>2</sup> The offices of commissioner of the Nineteenth Judicial District Court were created by La. R.S. 13:711 to hear and recommend disposition of criminal and civil proceedings arising out of the incarceration of state prisoners. La. R.S. 13:713(A). The district judge "may accept, reject, or modify in whole or in part the findings or recommendations made by the commissioner and also may receive further evidence or recommit the matter to the commissioner with instructions." La. R.S. 13:713(C)(5).

However, the Petitioner cannot be forced to accept unwanted medical treatment as long as it does not adversely affect others. Nonetheless, considering the lack of evidence of any added discomfort by the Petitioner in the record, failure to further accommodate the Petitioner's request in this matter does not appear to be unreasonable or in violation of his right against cruel and unusual punishment.

The State's duty to provide medical care is set forth in R.S. 15:831 and jurisprudence, which require that prison medical services must be reasonable. Further, the Department has a duty to reasonably protect inmates from injury. Considering the evidence in the record and the requirement that the Department provide reasonable medical care, and finding that there is no evidence that the treatment provided to this Petitioner has been unreasonable or has resulted in any additional injury or aggravation, I would suggest that this Court is required to maintain the agency's decision. It does not appear to be either arbitrary, capricious, manifestly erroneous or in violation of any of the Petitioner's constitutional or statutory rights. It would appear from the record that the Petitioner has received and will [continue] to receive ongoing medical treatment for the accident from which he was in. However, I would recommend that the suit be dismissed without prejudice so as to leave open any continuing complaint regarding the Petitioner's future health treatment. [Footnotes omitted.]

After a thorough review of the record, in consideration of Mr. Allen's arguments on appeal, and applying the relevant law and jurisprudence, we find no error of law or abuse of discretion by the district court in adopting, as its own, the commissioner's report. Thus, we affirm the May 24, 2018 judgment of the district court and find that the district court's reasons for judgment, as set forth in the commissioner's recommendation, adequately explain the decision. All costs associated with this appeal are assessed against petitioner, Derrick Jerome Allen.

**AFFIRMED.**