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STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

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2020 CA 0485

SHANE JOHNSON

VERSUS

LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS

JUDGMENT RENDERED: DEC 30 2020

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Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge • State of Louisiana  
Docket Number C689856 • Section 27

The Honorable Trudy White, Judge Presiding

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Shane Johnson, D.O.C. #423764  
David Wade Correctional Center  
Homer, Louisiana

APPELLANT  
PLAINTIFF—*Pro Se*

Johnathan Vining  
Baton Rouge, Louisiana

ATTORNEY FOR APPELLEE  
DEFENDANT—Louisiana  
Department of Public Safety &  
Corrections

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**BEFORE: WHIPPLE, C.J., WELCH, AND CHUTZ, JJ.**

**WELCH, J.**

Shane Johnson, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (“the Department”) and confined to David Wade Correctional Center, appeals a judgment dismissing his petition for judicial review of Disciplinary Board Appeal No. EHCC-2019-113, which involved discipline imposed while he was confined to Elayn Hunt Correctional Center.

Johnson was issued a disciplinary rule violation report for violating Rule #1 (Contraband), Rule #3 (Defiance), Rule #5 (Aggravated Disobedience), and Rule #17 (Property Destruction). Following a hearing before the prison disciplinary board, Johnson was found guilty of the offenses. The combined penalties imposed were ninety days of disciplinary segregation and twelve weeks loss of telephone privileges. He appealed that decision first to the Warden and then to the Secretary of the Department, and the appeals were denied.

Johnson then filed a petition for judicial review in the district court seeking the reversal and expungement of the disciplinary report from his record and an order directed to the Department to release him from extended lockdown. The commissioner assigned to the matter issued a screening report recommending that Johnson’s petition be dismissed for its failure to state a cause of action for which relief could be granted. In the commissioner’s report, the commissioner noted that the only penalties imposed were ninety days disciplinary segregation and twelve weeks loss of telephone privileges, that Johnson was afforded a hearing before the disciplinary board, and appeals of that ruling to both the Warden and the Secretary of the Department. The commissioner further noted that Johnson did not lose good time nor did he suffer any other atypical punishment for the disciplinary violations, and therefore, no substantial rights were involved. Although Johnson claimed that his right to petition the pardon and parole board was adversely affected by the disciplinary decision, the commissioner noted that Johnson failed to provide any

evidence that he had the right to be released on parole. Therefore, the commissioner found that Johnson failed to set forth a substantial right violation, and as such, the district court lacked authority to intervene, reverse, or otherwise review the claims made by Johnson. Based on this finding, the commissioner recommended that the district court dismiss Johnson's suit with prejudice, at his cost, pursuant to La. R.S. 15:1177(A)(9), for failing to raise a substantial rights violation and, thus, failing to state a cause of action or raise a cognizable claim. Thereafter, on January 23, 2020, the district court issued and signed a judgment in conformity with the recommendation of the commissioner, dismissing Johnson's suit with prejudice.

After a thorough review of the record, we find no error in the judgment of the district court or in the analysis and conclusions of the commissioner, which the district court adopted. As recognized by the commissioner's screening report, in order for the district court to reverse or modify the decision of the Department, Johnson had to first show how his substantial rights were prejudiced by the decision. See La. R.S. 15:1177(A)(9).<sup>1</sup> The disciplinary sentence of ninety days of disciplinary segregation and twelve weeks of loss of telephone privileges is not unusual or a significant hardship in relation to the ordinary incidents of prison life and did not prejudice Johnson's substantial rights. In the absence of prejudice to Johnson's substantial rights, modification or reversal of the disciplinary action by

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<sup>1</sup> Louisiana Revised Statutes 15:1177(A)(9) provides, in pertinent part:

The court may reverse or modify the decision [of the Department] **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 an 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.

(Emphasis added).

the district court (or this Court) is not warranted under the law. Therefore, we affirm the January 23, 2020 judgement of the district court, dismissing Johnson's petition for judicial review of the Disciplinary Board Appeal No. EHCC-2019-113 and issue this opinion in accordance with Uniform Rules—Courts of Appeal, Rule 2—16.2(A)(2), (5), and (6). All costs of this appeal are assessed to the appellant, Shane Johnson.

**AFFIRMED.**