

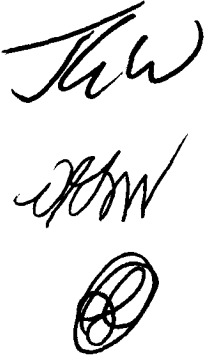
**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2009 CA 1421



AARON HARRELL

VERSUS

DEPARTMENT OF PUBLIC SAFETY  
AND CORRECTIONS

Judgment Rendered: February 12, 2010

\*\*\*\*\*

Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge, Louisiana  
Trial Court Number 574,776

Honorable Janice Clark, Judge

\*\*\*\*\*

Aaron Harrell  
Kinder, LA

In Proper Person  
Plaintiff – Appellant

William Kline  
Baton Rouge, LA

Attorney for  
Defendant – Appellee  
Louisiana Department of  
Public Safety & Corrections

\*\*\*\*\*

BEFORE: WHIPPLE, HUGHES, AND WELCH, JJ.

WELCH, J.

The plaintiff/appellant is Aaron Harrell, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (“the Department”) confined to Allen Correctional Center in Kinder, Louisiana. He appeals a judgment of the district court that dismissed, without prejudice, his application for a writ of habeas corpus due to lack of subject matter jurisdiction because he failed to exhaust his administrative remedies.

The plaintiff alleged that his custodian, a private prison contractor, had improperly taken good time credits from him as a sanction in a disciplinary proceeding. Pursuant to the screening requirements set forth in La. R.S. 15:1178 and 15:1188, the matter was submitted to the commissioner for judicial screening prior to service on the defendant. On May 8, 2009, the commissioner issued a report finding that the plaintiff’s complaint challenged the validity of disciplinary sanctions, and therefore, his complaint should have been raised through the disciplinary board appeal process, as provided in the Louisiana Administrative Code. See LAC 22:I.325(C). Since the plaintiff had not exhausted his administrative remedies, the commissioner concluded that the district court lacked subject matter jurisdiction over the claim. See **Hull v. Stalder**, 2000-2730, p. 3 (La. App. 1<sup>st</sup> Cir. 2/15/02), 808 So.2d 829, 831. Accordingly, the commissioner recommended that the plaintiff’s action be dismissed without prejudice, to allow the plaintiff the opportunity to seek relief through the administrative remedy procedure, and thereafter, if not satisfied with the final administrative agency decision, to seek judicial review.

After considering the entire record of the proceedings, on June 3, 2009, the district court adopted the commissioner’s recommendation and rendered judgment dismissing the plaintiff’s suit, without prejudice, due to lack of subject matter jurisdiction because of the plaintiff’s failure to exhaust his administrative remedies.

After a thorough review of the entire record of these proceedings, we find no error in the judgment of the district court and affirm the district court's judgment in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.2(A)(1), (2), (4), (5), (6), and (7).<sup>1</sup>

All costs of this appeal are assessed to the plaintiff/appellant, Aaron Harrell.

**AFFIRMED.**

---

<sup>1</sup> In **Reed v. Stalder**, 2004-0727 (La. App. 1<sup>st</sup> Cir. 5/6/05) (*unpublished*), the petitioner filed a petition for habeas corpus in which she claimed that the Department had arbitrarily and erroneously denied her good time credits. Pursuant to the screening requirements set forth in La. R.S. 15:1178 and 1188, the commissioner concluded that the petitioner's complaint was in essence a time computation governed by Corrections Administrative Remedy Procedure ("CARP"), La. R.S. 15:1171, *et seq.* The commissioner concluded that because the petitioner failed to submit her claim through CARP prior to instituting suit in district court, the district court lacked subject matter jurisdiction. In accordance with the commissioner's recommendation, the district court dismissed the petitioner's complaint for lack of subject matter jurisdiction because the petitioner had failed to exhaust her administrative remedies. On appeal, this court vacated the judgment of the district court and remanded to allow the petitioner the opportunity to amend her petition to state that she had exhausted her administrative remedies. This court's reason for doing so was predicated on the fact that in the petitioner's traversal to the commissioner's recommendation, she asserted that she had exhausted her administrative remedies and specifically requested the opportunity to amend her petition to comply with the technical requirements of La. R.S. 15:1176.

We find **Reed** distinguishable from the case presently before us. In this case, although the petitioner stated in his traversal to the commissioner's recommendation that he had exhausted his administrative remedies, he did not specifically request the opportunity to amend his petition to assert that he had. Therefore, in light of the petitioner's failure to request the opportunity to amend his petition, we do not find that the trial court abused its discretion in not allowing the petitioner the opportunity to amend his petition to assert that he had exhausted his administrative remedies.