

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 1622

CHARLES E. LEWIS

VERSUS

JAMES LeBLANC, SECRETARY, DEPARTMENT OF CORRECTIONS; JAY DARDENNE, SECRETARY OF STATE; BOBBY JINDAL, GOVERNOR; JO BRUCE, STEVEN RADER AND RILEY PALMER

Judgment Rendered: MAY 06 2011

* * * * *

On Appeal from the Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket No. 588,305

Honorable Timothy E. Kelley, Judge Presiding

* * * * *

James D. "Buddy" Caldwell
Attorney General

Patricia H. Wilton
Assistant Attorney General
Baton Rouge, Louisiana

Charles E. Lewis
Lake Providence, Louisiana

Counsel for Appellee
Louisiana Department of
Public Safety and Corrections

Plaintiff/Appellant
In Proper Person

* * * * *

BEFORE: WHIPPLE, McDONALD, AND McCLENDON, JJ.

McCLENDON, J.

Plaintiff, Charles E. Lewis, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (the Department), challenges a judgment of the district court dismissing with prejudice certain defendants in this matter as well as his request for monetary relief. We affirm.

On March 9, 2010, plaintiff filed this petition for judicial review pursuant to LSA-R.S. 15:1177, seeking review of the final agency decision in Administrative Remedy Procedure No. HDQ-2009-1549. In his petition, plaintiff sought injunctive relief and money damages based upon, *inter alia*, the wrongful handling of his legal mail. In addition to the Department, plaintiff named as defendants Governor Bobby Jindal, Secretary of State Jay Dardenne, Judicial Administrator Jo Bruce of the 19th Judicial District Court, Warden Steve Rader and Captain Riley Palmer.

The commissioner issued a report on May 11, 2010, noting that in a request for judicial review, the only party that is authorized to grant relief is the Department, and the administrative action filed by plaintiff is directed to the Department. See LSA-R.S. 15:1177A(1)(b).¹ The commissioner stated that because Secretary James LeBlanc is the party who accepts service on behalf of the Department, Secretary LeBlanc is the only proper party defendant in this matter. Accordingly, the commissioner recommended that the district court recognize, on its own motion, and grant an exception of no cause of action, dismissing with prejudice the other listed defendants.

With regard to plaintiff's claim for monetary damages, the commissioner noted a jurisdictional conflict, stating that while a request for judicial review is heard based on the appellate jurisdiction of the court, a claim for damages must be heard based on the original jurisdiction of the district court. See LSA-R.S.

¹ Louisiana Revised Statute 15:1177A(1)(b) provides, in pertinent part:

The only proper party defendant is the Department of Public Safety and Corrections when seeking judicial review of an administrative decision, excluding decisions relative to delictual actions for injury or damages, rendered pursuant to any administrative remedy procedures under this Part.

15:1177C.² The commissioner further noted that the legislature has provided that the venue for a claim asserting damages must be raised in the parish where the petitioner was housed when the cause of action arose. See LSA-R.S. 15:1184F.³ Thus, the commissioner recommended that plaintiff's claim for monetary damages be dismissed with prejudice.

On May 26, 2010, the district court rendered judgment, adopting as reasons the commissioner's report, and granted on its own motion an exception of no cause of action, dismissing with prejudice defendants Governor Jindal, Secretary of State Dardenne, Jo Bruce, Warden Rader, and Captain Palmer, and further dismissing with prejudice plaintiff's request for monetary relief. The court ordered that the matter proceed as a request for judicial review of the final agency decision rendered in this matter. Plaintiff appealed.

After a thorough review of the record, as well as relevant law and jurisprudence, we find that the district court's reasons for judgment, as set forth in the commissioner's recommendation, adequately explain the decision, and we find no error of law. Accordingly, we affirm the May 26, 2010 judgment of the district court in accordance with Uniform Rules – Courts of Appeal, Rule 2-16.1.B. All costs of this appeal are assessed to the plaintiff, Charles E. Lewis.

AFFIRMED.

² Louisiana Revised Statute 15:1177C provides, in pertinent part:

This Section shall not apply to delictual actions for injury or damages, however styled or captioned. Delictual actions for injury or damages shall be filed separately as original civil actions.

³ Louisiana Revised Statute 15:1184F provides:

The exclusive venue for delictual actions for injury or damages shall be the parish where the prison is situated to which the prisoner was assigned when the cause of action arose. Upon consent of all parties, the court may transfer the suit to a parish in which venue would otherwise be proper.