

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2011 CA 0627

KELSEY BENOIT

VERSUS

TONIA RACHAL, RECORDS MANAGER, AVOYELLES
CORRECTIONAL CENTER AND LYNN COOPER,
WARDEN

Judgment Rendered: November 9, 2011

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On Appeal from the
19th Judicial District Court,
In and for the Parish of East Baton Rouge,
State of Louisiana
Trial Court No. 581,711

Honorable Kay Bates, Judge Presiding

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ASJC
TMH
RHS
Kelsey Benoit
Cottonport, LA

Plaintiff-Appellant,
In Proper Person

Debra A. Rutledge
Baton Rouge, LA

Attorney for Defendant-Appellee,
Department of Public Safety and
Corrections, et al.

* * * * *

BEFORE: CARTER C.J., PARRO AND HIGGINBOTHAM, JJ.

HIGGINBOTHAM, J.

Kelsey Benoit, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals a judgment affirming the final agency decision and dismissing his petition for judicial review. We affirm the judgment in accordance with Rule 2-16.2(A)(2), (4), and (6) of the Uniform Rules of Louisiana Courts of Appeal.

Mr. Benoit contends that DPSC erred in not finding him eligible for diminution of his sentence for good behavior, because it was a condition of his plea agreement that he be eligible for good time credit. The record contained a copy of Mr. Benoit's sentence that stated, "The Court does not impose restrictions concerning diminution of sentence for good behavior." DPSC has taken the position that Mr. Benoit was convicted for a violation of La. R.S. 14:81, indecent behavior with juveniles, which by operation of law does not allow for good time eligibility under La. R.S. 15:537(A).¹

After a thorough review of the record, we agree that, because Mr. Benoit was convicted of an offense specified in La. R.S. 15:537(A), he is precluded from earning any diminution of sentence for good behavior. See also La. 15:571.3(B)(2)(b) prior to its amendment by 2011 La. Acts, No. 186 § 2.

Accordingly, we affirm the screening judgment of the district court, dismissing Mr. Benoit's petition for judicial review with prejudice. We issue this summary disposition in accordance with Uniform Rules – Courts of Appeal, Rule 2-16.2A(2), (4), (5), and (6). Costs of this appeal are assessed to appellant, Kelsey Benoit.

AFFIRMED.

¹ Louisiana Revised Statutes 15:537(A) provides in pertinent part:

If a person is convicted of or pleads guilty to, or where adjudication has been deferred or withheld for a violation of R.S. 14:81 (indecent behavior with juveniles)... and is sentenced to imprisonment for a stated number of years or months, the person shall not be eligible for diminution of sentence for good behavior.