

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 1289

KEVIN JARRELL

VERSUS

**IVY MORRIS, ET AL., CORRECTIONS RECORDS
MANAGER II, RAYBURN CORRECTIONAL CENTER,
LINDA RAMSAY, ET AL.,
SECRETARY'S DESIGNEE, LOUISIANA DEPARTMENT
OF PUBLIC SAFETY AND CORRECTIONS**

KEW

JEW

Judgment Rendered: February 12, 2010

On Appeal from the 19th Judicial District Court
In and For the Parish of East Baton Rouge
Trial Court No. 535,046

Honorable Wilson Fields, Judge Presiding

Kevin Jarrell
Angie, LA

Plaintiff/Appellant
Pro Se

Debra A. Rutledge
Baton Rouge, LA

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

BEFORE: WHIPPLE, HUGHES, AND WELCH, JJ.

HUGHES, J.

This is an appeal of a judgment of the 19th JDC, affirming the decision of the Department of Public Safety and Corrections (DPSC). For the reasons that follow, we affirm.

FACTS AND PROCEDURAL HISTORY

Plaintiff/Appellant Kevin Jarrell is an inmate in the custody of the DPSC, serving three concurrent sentences totalling 10 years for crimes of violence. In April 2008 he filed a petition for judicial review of an adverse decision in a corrections administrative remedy procedure regarding computation of the time he served. The allegations in the original petition were two-fold: 1) DPSC had wrongfully taken from him due to disciplinary actions more good time than he had earned,¹ and 2) the equation used by DPSC to calculate good time release dates is in conflict with LSA-R.S. 15:571.3. Regarding the time computation, Jarrell alleges specifically that the formula utilized by DPSC results in the inmate serving 85% of his sentence before release. Jarrell urges that under the language of the statute, the inmate should only have to serve a total of 82.4% of his sentence before reaching release eligibility. In reaching this conclusion, Jarrell points to the language of the applicable statute, LSA-R.S. 15:571.3, which states that good time is to be earned “at the rate of three days for every seventeen days in actual custody, including in either case time spent in custody with good behavior prior to sentence for which the prisoner is given credit.” Jarrell translates the three days for every seventeen served to equal 0.17647 (or roughly 82.4% of the full sentence), while DPSC’s translation requires that the inmate serve 85% of his sentence.

¹ DPSC corrected the error regarding computation of good time days earned and the taking of good time credits due to disciplinary infractions at the lower court level. As such, this issue is not before us in this appeal.

We adopt the well-reasoned recommendation of the commissioner. The commissioner correctly notes the fatal flaw in Jarrell's calculations: Jarrell's formula gives the inmate a credit of 3 days for every 17 days *that he is sentenced to serve*, as opposed to a credit of 3 days for every 17 days *that he actually serves*, as required by the statute. The formula utilized by DPSC, more fully explained in the commissioner's report, realizes that an inmate must actually serve 17 days before being credited for serving an additional 3 days. The inmate will not actually serve the entire sentence. Therefore, an inmate must serve 17/20 of his sentence, or 85%.

After a thorough review of the record, we conclude that the trial court did not err in dismissing the petition. The trial court judgment is affirmed in accordance with Uniform Court of Appeal Rule 2-16.2 (A)(2),(5),(6), and (8). All costs of this appeal are assessed to appellant, Kevin Jarrell.

AFFIRMED.