

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 1889

RICKEY JOSEPH ALEX

VERSUS

**BRENDA ACKLIN, LONNIE NAIL & JERRY GOODWIN, ASSISTANT
WARDEN, DAVID WADE CORRECTIONAL CENTER**

Judgment Rendered: MAY 06 2011

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On Appeal from the Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket No. C562361

Honorable Timothy E. Kelley, Judge Presiding

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Rickey Joseph Alex
Lake Charles, Louisiana

Plaintiff/Appellant
In Proper Person

Terry L. Cannon
Baton Rouge, Louisiana

Counsel for Defendants/Appellees
James M. LeBlanc, State of
Louisiana, Department of Public
Safety and Corrections, Jerry
Goodwin, Brenda Acklin and
Lonnie Nail

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BEFORE: WHIPPLE, McDONALD, AND McCLENDON, JJ.

PMC
YDM
JMM

McCLENDON, J.

Ricky Alex (Alex) appeals a district court's judgment dismissing his appeal as moot. For the following reasons, we affirm.

Alex was convicted of simple burglary and purse snatching on March 22, 1993, and was sentenced to serve fifteen years. While serving, he was convicted of battery on two separate occasions and sentenced to an additional two years and six months, respectively. These sentences were to run consecutively with the original sentence. On August 14, 2007, Alex was accused of aggravated disobedience in violation of prison rule number five. As a result, the disciplinary board sentenced him to ten days in isolation and forfeiture of 180 days of "good time." Alex filed an appeal with the Secretary of the Department of Public Safety and Corrections (DPSC), wherein he only contested the forfeiture of the 180 days of "good time." On November 15, 2007, the DPSC denied his appeal.

On December 20, 2007, Alex filed a Petition for Judicial Review in the 19th Judicial District Court, demanding immediate release from custody and reinstatement of the 180 days of "good time." He argued that since he was serving a "flat" sentence when the violation occurred, "good time" could not be revoked. He alleged that this resulted in an inappropriate sanction, ultimately resulting in false imprisonment and excess sentencing. Meanwhile, he was released from custody on January 24, 2008.

On May 8, 2008, DPSC filed a motion to dismiss the plaintiff's appeal as moot, noting that Alex had been released from custody and that a total of 540 days of "[b]anked [g]ood time" had been reinstated to Alex. The matter was assigned to and reviewed by a commissioner.¹ On November 7, 2008, the commissioner issued a report recommending that the DSPC's motion be granted and that the matter be dismissed as moot because the "restoration of good time at this point would not benefit [Alex] in any way..." On December 1, 2008, the

¹ Because this matter is a suit by an inmate, this case was assigned to a commissioner to conduct all proceedings and make a recommendation to the appropriate district court judge. This is a procedure followed in the Nineteenth Judicial District Court to handle the large volume of lawsuits filed by inmates under LSA-R.S. 15:1177(A). See LSA-R.S. 13:713.

district court, in accordance with the commissioner's recommendation, granted DPSC's motion to dismiss. Alex has appealed the district court's judgment.

On appeal, Alex contests the forfeiture of the 180 days of "good time" imposed by the disciplinary board. However, the record reflects that Alex was reinstated a total of 540 days of "good time," which includes the 180 days disputed in this case. Moreover, as noted by the commissioner, Alex was released from physical custody from the state on January 24, 2008 on good time supervision. As such, there is no further relief available through this appeal.²

It is well-settled that "courts will not decide abstract, hypothetical or moot controversies, or render advisory opinions with respect to such controversies."

State v. Malone, 08-2253, p.2 (La. 12/1/09), 25 So.3d 113, 116 (quoting **Cat's Meow, Inc. v City of New Orleans**, 98-0601, p.8 (La. 10/20/98), 720 So.2d 1186, 1193). A case is moot when a rendered judgment or decree can serve no useful purpose and give no practical relief or effect. **Id.** Accordingly, we find that the district court correctly dismissed Alex's appeal as moot.

For the forgoing reasons, we affirm the district court's judgment granting DPSC's motion to dismiss Alex's appeal. Costs of this appeal are assessed to Alex.

AFFIRMED.

² Moreover, we note that this appeal derives directly from the punishment imposed by the disciplinary board regarding the forfeiture of 180 days of "good time" arising from violation of prison rule number five. We note that our review, as well as the district court's review, is limited to that sole issue. To the extent Alex seeks additional relief, if such is available, this appeal is not the appropriate avenue.