

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2009 CA 1401

ROGER CLAYTON PRICE

VERSUS

VENETIA MICHAELS, WARDEN; RICHARD STALDER, SECRETARY OF  
LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

Judgment Rendered: February 12, 2010

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Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish East Baton Rouge, Louisiana  
Trial Court Number 553,433

Honorable William Morvant, Judge

\* \* \* \* \*

Roger C. Price  
Keithville, LA

Pro Se  
Plaintiff – Appellant

Susan Wall Griffin  
Baton Rouge, LA

Attorney for  
Defendant – Appellee  
James LeBlanc, Secretary of  
Department of Public Safety  
& Corrections

\* \* \* \* \*

BEFORE: WHIPPLE, HUGHES, AND WELCH, JJ.

WELCH, J.

Roger Clayton Price, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (“the Department”) confined to Forcht Wade Correctional Center in Keithville, Louisiana, appeals a judgment of the district court dismissing his petition for judicial review of Administrative Remedy Procedure No. FWADE-2006-179 and affirming the Department’s final decision in the matter.

On June 8, 1984, Price was sentenced to forty years in prison for an armed robbery conviction in Sabine Parish under docket number 32058. At the time Price was remanded to the custody of the Department, he was able to earn 15 days of good time for every 30 days served in actual custody. In 1994, he rejected the opportunity to earn double good time credit—or thirty days of good time for every thirty days in actual custody—as he would have been required to forfeit his incentive wages. Price was released on parole supervision on December 20, 2003, and was to remain on supervision until June 21, 2023.

While on parole, Price was arrested on November 1, 2004, for simple battery in Vernon Parish. On February 1, 2005, he received a six-month suspended sentence, with credit for time served, and was released from custody. The same date, he was returned to custody for charges (again in Vernon Parish) relating to a DWI and careless operation of a vehicle. On April 22, 2005, he received a sentence of one hundred twenty days in the parish jail, subject to credit for time served, or a \$450 fine plus court costs.

On May 24, 2006, Price’s parole was revoked on the original armed robbery sentence. On November 27, 2006, Price filed a request for administrative remedy, seeking to have the Department re-calculate the remainder of his sentence to include good time credit for good time that he earned prior to his December 20, 2003 release on parole and to include jail credits on the sentence for the time he

was held in Vernon Parish pending the charges for simple battery and DWI, which would result in his immediate release. The Department denied the relief sought, maintaining that Price continued to earn good time at the rate of 15 days for every 30 days served in custody, but could opt, prospectively, to earn double good time in lieu of incentive wages. Price then instituted this proceeding, seeking review of the Department's decision.

The commissioner assigned to the matter conducted an evidentiary hearing and ordered the expansion of the administrative record with regard to the jail credits that related to the misdemeanor charges in Vernon Parish. Thereafter, the commissioner issued a recommendation to the district judge noting that when Price was released on parole and signed the form relating to the conditions of his release, he agreed to forfeit all good time earned prior to revocation. Therefore, the commissioner concluded that Price's contention that he was entitled to good time credits earned prior to the revocation of his parole was without merit. The commissioner also noted that the jail credit letters and sentencing minutes relative to Price's two misdemeanor convictions in Vernon Parish indicated that Price was held in physical custody on those two particular misdemeanor convictions between November 1, 2004 and May 2, 2005, and was not in physical custody for only a portion of February 1, 2005. The commissioner noted that, although there had been a parole detainer issued while Price was in custody, he did receive credit for time served on his Vernon Parish misdemeanors from November 1, 2004 until May 2, 2005. Additionally, the commissioner noted that Price also received 386 days of credit following his May 2, 2005 release until his parole revocation on May 24, 2006, and therefore, he was not entitled to any further jail credits. Accordingly, the commissioner concluded that Price was not entitled to the relief sought in his petition for judicial review, that his petition should be dismissed, and that the Department's decision should be affirmed.

After considering the entire record of the proceedings, on July 24, 2008, the district court adopted the commissioner's recommendation and rendered judgment dismissing Price's petition and affirming the Department's decision. After a thorough review of the 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)(5), (6), (7), and (8). Moreover, we find the July 7, 2008 commissioner's recommendation adopted by the district court in its July 24, 2008 judgment adequately explains, discusses, and resolves the issues raised by Price, and therefore, we adopt those written reasons and incorporate them into this opinion as "Appendix A."

All costs of this appeal are assessed to the plaintiff/appellant, Roger Clayton Price.

**AFFIRMED.**

ROGER PRICE

\* NO. 553,433 - SECTION: 23

vs.

\* 19<sup>TH</sup> JUDICIAL DISTRICT COURTFORCHT WADE CORRECTIONAL  
CENTER, ET AL

\* PARISH OF EAST BATON ROUGE

\* STATE OF LOUISIANA

POSTED  
JUL 25 2008COMMISSIONER'S RECOMMENDATION 

The petitioner filed this request for relief seeking judicial review of the denial of his time computation claim rendered under Administrative Remedy Procedure No. FWADE – 2006 – 179. In this matter the petitioner seeks both good time credits and jail credits for time served on his 40 year Armed Robbery sentence imposed under the Sabine Parish Docket No. 32058. A hearing was conducted in this matter on December 12, 2007 where the administrative record was expanded and the testimony of Mr. Henry Goines, time computation analyst for the Department, was offered by the defendants. A transcript was prepared on February 26, 2008 and upon further review of the record this Commissioner found the record to be incomplete. On June 10, 2008 this Commissioner ordered the defendants to further supplement the administrative record with jail credit letters regarding two misdemeanor charges from Vernon Parish. The defendants have complied with this Court's order to supplement the record on June 27, 2008. The record is now complete and the jail credit letters are included for this Court's review.

The administrative record indicates the petitioner was convicted of Armed Robbery under Sabine parish Docket No. 32058 and on June 8, 1984 was sentenced to 40 years. The petitioner rejected the opportunity to earn double good time and earns 15 days for every 30 served in actual physical custody. The petitioner was released on parole supervision on December 20, 2003 and was to remain on supervision until June 21, 2023. The conditions of parole form signed by the petitioner reflects a December 20, 2003 parole release date.

The petitioner was arrested on November 1, 2004 in Vernon Parish for simple battery. The minute record filed in this matter under Exhibit D-2 indicated the petitioner received a 6 month suspended sentence on that matter on February 1, 2005. The jail credit letter contained in this record indicates the petitioner satisfied that particular sentence and was released from physical custody on the date sentence was imposed, February 1, 2005. Unfortunately, the petitioner was arrested following his release on DWI – 1<sup>st</sup> offense and careless operation charges. The jail credit letter regarding his DWI charge under Vernon parish Docket No 67931 shows he was returned to physical custody on February 1, 2005. The petitioner's careless operation charge was dismissed and the minute record contained in Exhibit D-2 indicates that on April 22, 2005 the petitioner pled guilty to DWI – 1<sup>st</sup> offense. The petitioner received a sentence of 120 days in the parish jail or a \$450 fine plus court costs. The jail credit letter evidences the petitioner served his time on his DWI charge and completed his sentence on May 2, 2005. This Commissioner notes the jail credit letters were included in this record to allow the Court to determine the amount of time the petitioner served on his two misdemeanor convictions. It should also be noted that the petitioner was provided with an updated master prison record dated December 7, 2007, which indicates the petitioner was awarded 386 days credit for time served following the satisfaction of his two Vernon Parish sentences. The petitioner's parole was revoked on his original Sabine Parish Armed Robbery sentence on May 24, 2006.

In this matter the petitioner seeks credit for good time earned prior to his December 20, 2003 release on parole. The petitioner seeks good time from the date of his arrest, June 29, 1983, until the date he was released on parole supervision. The petitioner also seeks jail credits on his Sabine Parish Armed Robbery conviction for the time he was held in Vernon Parish on his two misdemeanor charges. The petitioner contends there was a parole detainer in place which held him in custody while the two misdemeanor matters were

pending and the petitioner argues he should receive credit for the time held on the parole detainer toward the balance owed on his Sabine Parish Armed Robbery sentence. The Department argued that the petitioner should not receive jail credits for the same period of time served in custody on both his Vernon Parish misdemeanors and his Sabine Parish felony. The defendants argue the time period at issue was applied to the Vernon Parish misdemeanors and the petitioner should not receive addition credit on his Sabine Parish felony sentence.

This Commissioner finds that the petitioner was released on parole on December 20, 2003 and signed the conditions of release contained in this administrative record. Although the copy of the conditions of parole is of poor quality, it reflects the petitioner agreed to forfeit all good time earned prior to revocation in Condition No. 18. In his testimony Mr. Goines pointed out that R.S. 15:571.4 (B) (2) (as amended by Act 820 of 1997) provides that upon a revocation of release on parole, a parolee should forfeit all good time earned prior to revocation. It is further noted that in the decision rendered in *Bancroft v. Louisiana Department of Corrections*, 635 So. 2d 738 (La. App 1 Cir. 1994) the First Circuit Court of Appeal rejected an ex post facto claim where a parolee was put on notice of a statutory provision providing for the forfeiture of good time upon revocation of parole at the time of his release on parole. At the time of the petitioner's release on parole he was put on notice of the provision of R.S. 15:571.4(B)(2) and it is the date of the petitioner's release on parole that governs what forfeiture provisions apply, rather than the date of the commission of the petitioner's offense. The petitioner's contention that he is entitled to any good time credits earned prior to his revocation is without merit.

Furthermore, this Commissioner finds that the jail credit letters and the sentencing minutes relative to the petitioner's two misdemeanor convictions in Vernon Parish show the petitioner was held in physical custody on those two particular misdemeanor convictions between November 1, 2004 and May 2,

2005. The records reflect the petitioner was out of physical custody for only a portion of February 1, 2001 when he was arrested for DWI on the same date he completed his Domestic Abuse Battery sentence. However, the petitioner received credit for time served on his Vernon Parish misdemeanors from November 1, 2004 until May 2, 2005. Although, there was a parole detainer issued while the petitioner was held in custody, he did receive credit on his misdemeanors for the time served. After the petitioner completed his DWI sentence on May 2, 2005, the Department awarded the petitioner 386 days credit as he was held only on the parole detainer following May 2, 2005 until his parole revocation on May 24, 2006. The petitioner fails to show he is entitled to any additional jail credits in this matter. The administrative record indicates the petitioner rejected double good time on December 2, 1994 after he was approved to receive double good time back to June 8, 1984. The petitioner contends he refused to sign the good time approval form because it was blank and did not reflect he would have received good time prior to the date he signed the approval form. The administrative record does not contain any documentation to support the petitioner's position. At the hearing conducted in this matter the petitioner contends he was presented another good time approval form in December of 2007 and contended the form he was presented in 1994 was the same form, except that there was no approval date. There is nothing in this record to support the petitioner's contention that he was presented with a blank approval form in 1994 and this Commissioner finds the petitioner fails to show his rejection of double good time should be disturbed at this time. The petitioner fails to show he is entitled to the relief sought in this request for judicial review.



Therefore, it is the recommendation of this Commissioner that the petitioner's request for judicial review should be dismissed with prejudice, at the petitioner's cost, and the final agency decision rendered in this matter affirmed by this Court.

Respectfully recommended this 7<sup>th</sup> day of July, 2008.

*[Handwritten signature of John M. Smart, Jr.]*

JOHN M. SMART, JR.  
COMMISSIONER, SECTION B  
19<sup>TH</sup> JUDICIAL DISTRICT COURT

**FILED**

JUL - 7 2008  
*Brenda Saik*  
DEPUTY CLERK OF COURT

I HEREBY CERTIFY THAT ON THIS DAY A COPY OF THE WRITTEN REASONS / JUDGMENT / ORDER / COMMISSIONER'S RECOMMENDATION WAS MAILED BY ME WITH SUFFICIENT POSTAGE AFFIXED TO: ALL PARTIES NOTIFIED DONE AND SIGNED ON 7/8/08  
*Brenda Saik*  
DEPUTY CLERK OF COURT

