

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 0875

ANDREA HALL

VERSUS

**LOUISIANA DEPARTMENT OF
PUBLIC SAFETY AND CORRECTIONS, ET AL.**

—
**On Appeal from the 19th Judicial District Court
Parish of East Baton Rouge, Louisiana
Docket No. 583,516, Section 26
Honorable Kay Bates, Judge Presiding**
—

**Andrea Hall
Angola, LA**

**Plaintiff-Appellant
In Proper Person**

**William L. Kline
Baton Rouge, LA**

**Attorney for
Defendant-Appellee
Louisiana Department of
Public Safety & Corrections**

BEFORE: PARRO, GUIDRY, AND HUGHES, JJ.

Judgment rendered October 29, 2010

RHP
JD
Juz

PARRO, J.

Andrea Hall, an inmate in the custody of the Louisiana Department of Public Safety and Corrections (DPSC), appeals a judgment of the Nineteenth Judicial District Court (19th JDC) that dismissed his petition for judicial review. Based on our review of the record, we reverse the judgment and remand this matter for further proceedings.

DISCUSSION

On October 15, 2009, Hall filed a petition for judicial review with the 19th JDC, alleging that, in accordance with the Corrections Administrative Remedy Procedure (CARP) established by LSA-R.S. 15:1171, *et seq.*, he had filed with the prison warden a loss of personal property claim concerning 20 family photographs that were missing from his personal property that had been stored within the Camp J storage room at the prison. His request for reimbursement of \$200 was denied, stating:

In your letter of complaint dated April 8, 2009, you state that on March 19, 2009, Sergeant Stroud inventoried your property and placed it into storage at Camp J. You further state on April 8, 2009, Sergeant Lachney returned your personal property to you and your 20 photographs were missing so you refused to sign. Institutional records reflect that your property was placed into storage on March 19, 2009. Institutional records reflect that your 20 photographs are still in storage because you refused to sign for them. No evidence is found to support your allegations. Your property claim is denied.

Hall's petition also alleged that he had asked for further review by the Secretary of DPSC, in accordance with CARP procedures, but that the time limit for the Secretary's decision had lapsed without any response. On November 5, 2009, he filed an application for writ of mandamus, asking the court to order DPSC to re-inventory his personal property, as required by prison regulations whenever an inmate has alleged the loss of personal property. On that same date, he also filed a motion for leave to file an amended petition for judicial review, in which he stated that since the filing of his original petition, DPSC Secretary James M. LeBlanc had filed a response to his personal property claim, affirming the denial of that claim. A copy of the Secretary's denial of his claim, dated August 27, 2009, was attached to his amended petition for judicial review.

Although he also filed an order to be signed by the court to allow the filing of the amended petition, the order was not signed.

Pursuant to the screening provisions of LSA-R.S. 15:1178 and LSA-R.S. 15:1184(A)(2), Hall's petition was assigned to a commissioner at the 19th JDC to be reviewed. The commissioner's report, which was signed on February 8, 2010, recommended that the district court dismiss Hall's appeal, because "[o]n the face of the appellate petition, [Hall] admits that this complaint is pending and has not been yet exhausted through the Secretary's (final) administrative level." The commissioner concluded that, because Hall had failed to exhaust his administrative remedies, his petition for judicial review was premature, and the district court had no subject matter jurisdiction. Based on this recommendation, the district court judge dismissed the petition, signing a "screening judgment" on March 11, 2010.

It is clear from our review of the record that the commissioner did not consider Hall's amended petition for judicial review, which included a copy of the Secretary's final decision. The record shows that Hall has exhausted the administrative remedies available to him under CARP, and the district court has subject matter jurisdiction to consider his petition for judicial review. Therefore, this matter will be remanded to the district court for service of process pursuant to LSA-R.S. 15:1179 and for further proceedings consistent with LSA-R.S. 15:1177(A).

CONCLUSION

For the above stated reasons, we reverse the judgment of March 11, 2010, and remand this matter to the district court for further proceedings. All costs of this appeal, in the amount of \$692.50, are assessed to DPSC.

REVERSED AND REMANDED.