

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

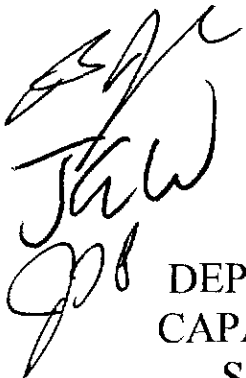
COURT OF APPEAL

FIRST CIRCUIT

NO. 2008 CA 0020

KRIS KENNY

VERSUS

 DEPUTY DOMINICK MASON, INDIVIDUALLY AND IN HIS
CAPACITY AS AN EMPLOYEE OF ST. TAMMANY PARISH
SHERIFF'S OFFICE, SHERIFF JACK STRAIN, STATE
TROOPER TROY DIXON, INDIVIDUALLY AND AS AN
EMPLOYEE OF THE STATE OF LOUISIANA, STATE
TROOPERS AND STATE OF LOUISIANA

Judgment Rendered: June 6, 2008.

* * * * *

On Appeal from the
22nd Judicial District Court,
In and for the Parish of St. Tammany,
State of Louisiana
Trial Court No. 2007-11216

The Honorable Donald M. Fendlason, Judge Presiding

* * * * *

Otha Curtis Nelson, Sr.
Baton Rouge, LA

Attorney for Plaintiff/Appellant,
Kris Kenny

Charles M. Hughes, Jr.
Stan E. Branton
Bogalusa, LA

Attorneys for Defendants/Appellees,
St. Tammany Sheriff's Department,
through the St. Tammany Parish
Work Release Facility, and Deputy
Dominick Mason, Individually and in
his capacity as a Deputy Sheriff for
St. Tammany Parish

Michael C. Keller
Phyllis E. Glazer
New Orleans, LA

Attorneys for Defendants/Appellees,
State Trooper Talmidge Dixon,
Individually and in his capacity as a
State Trooper for the State of
Louisiana

* * * * *

BEFORE: CARTER, C.J., PETTIGREW AND WELCH, JJ.

CARTER, C. J.

Kris Kenny, an inmate in the custody of the Department of Corrections, filed this tort suit against multiple defendants on March 6, 2007, alleging that he was beaten by law enforcement personnel on March 5, 2006. The trial court sustained a peremptory exception raising the objection of prescription urged by defendants St. Tammany Parish Sheriff's Department, Deputy Dominick Mason, individually and in his official capacity as Deputy Sheriff of St. Tammany Parish, and Sheriff Jack Strain, in his official capacity as Sheriff of St. Tammany Parish, and dismissed Kenny's claims against those defendants.¹ Kenny now appeals.

Kenny complains that the trial court abused its discretion in refusing to have him transported from his place of incarceration (Avoyelles Correctional Center in Cottonport, Louisiana) to the courthouse in Covington for the hearing on the exception. A prisoner's right to sue for civil damages does not involve a fundamental constitutional right, and, thus, access to the courts may be restricted if there is a rational basis for the restriction. The determination of whether a prisoner-party in a civil action should appear personally in court rests in the discretion of the trial court. **Taylor v. Broom**, 526 So.2d 1367, 1370 (La. App. 1 Cir. 1988). Based on the record before us, we find that the trial court did not abuse its discretion in refusing to have Kenny transported to the courthouse for the hearing.

Kenny also complains that the trial court issued its written reasons before he submitted his post-trial memorandum. This court's review is limited to judgments. The trial court's written reasons form no part of its judgment. LSA-C.C.P. art. 1918; **Bellard v. American Cent. Ins. Co.**, 07-

¹ Kenny's claims against the remaining defendants remain outstanding.

1335, 07-1339 (La. 4/18/08), ___ So.2d ___, ___. Kenny makes no complaints about the date of the judgment, which was rendered well after his post-trial memorandum was filed.

Kenny's sole argument related to the merits of the trial court's judgment sustaining the peremptory exception raising the objection of prescription is that he was the victim of a continuing tort, in that he was not provided timely medical treatment. The record does not support this position. Kenny's petition does not allege that he was denied medical treatment. Kenny's petition sets forth that he suffered injuries when he was beaten by law enforcement personnel on March 5, 2006. Accordingly, his petition, filed March 6, 2007, was untimely and is prescribed. See LSA-C.C. art. 3492.

For the foregoing reasons, the judgment of the trial court is affirmed. Costs of appeal are assessed to Kris Kenny. This memorandum opinion is issued in compliance with URCA Rule 2-16.1.B.

AFFIRMED.