

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2011 CA 2260

THOMAS HAYNES

VERSUS

WARDEN BURL CAIN, SECRETARY JAMES LEBLANC,
MASTER SERGEANT MURRAY, MASTER SERGEANT W. SCOTT

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Judgment Rendered: June 8, 2012

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APPEALED FROM THE NINETEENTH JUDICIAL DISTRICT COURT
IN AND FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA
DOCKET NUMBER 587,980, SECTION 22

THE HONORABLE TIMOTHY KELLEY, JUDGE

* * * * *

Thomas Haynes
Angola, Louisiana

Plaintiff/Appellant
In Proper Person

Terri L. Cannon
Angola, Louisiana

Attorneys for Defendants/Appellees
Warden Burl Cain, Secretary James
LeBlanc, Master Sergeant Murray,
Master Sergeant W. Scott

BEFORE: GAIDRY, McDONALD, AND HUGHES, JJ.

Hughes, J., concurs.

McDONALD, J.

This matter reviews a district court judgment regarding a lost property claim by a prisoner, Thomas Haynes. For the following reasons the judgment is affirmed.

Thomas Haynes was being transferred to a new area of Angola. He alleges that he was forced to sign a receipt for his personal property before being allowed to inspect for missing items. Upon arriving at the new area, Mr. Haynes received and inspected the bundle of his personal property and contends that two pair of jeans and a pair of Wolverine work boots were missing. These items were not state issue. A lost property form was submitted and Mr. Haynes correctly followed all administrative procedures in order to have the matter submitted for judicial review.

Commissioner Smart handled the matter and recommended that Mr. Haynes' complaint be dismissed with prejudice. Nineteenth District Court Judge Timothy Kelly reviewed and affirmed Commissioner Smart's findings. That judgment has been appealed and is before this court.

Initially, we note that our standard of review requires us to find that the decision contained a legal error or a factual finding that was manifestly erroneous or clearly wrong and that the clearly wrong fact affected the validity of the judgment.

Mr. Haynes assigns four errors. Two allege failure by the district court in making the decision without an adequate response or investigation by the Department of Corrections. Petitioner also contends that it was error to find that he failed to show the Department's denial was manifestly erroneous, arbitrary, and an abuse of discretion and error to dismiss his petition with prejudice.

We have thoroughly reviewed this record and find no error. The legal procedures followed in this matter do not reveal any deficiencies or errors. Mr.

Haynes complains that a more thorough investigation should have been made. A statement by a witness, Lyle Johnson, corroborated his account of the facts, and Mr. Haynes does not think that an adequate investigation into Mr. Johnson's account was conducted.

According to Mr. Haynes, he was forced to sign the receipt for his property prior to being able to inspect it and told that if he discovered any lost property he could file a lost property claim at his new housing assignment. He also claims that he was told he would not receive his property if he didn't sign the receipt. However, a review of the record shows that Commissioner Smart noted, "Unfortunately for the petitioner, the administrative record does indicate the petitioner was allowed to inspect his property prior to signing for receipt of his property."

The issue before us is not whether or not we believe Mr. Haynes. Neither do we have the authority to order the Department of Corrections to conduct an investigation. The record indicates that Master Sgt. Murray was questioned regarding this matter. He stated that he has never refused an offender the right to check his property and that he has always followed established procedures when delivering property. These procedures provide a property inventory form of personal items and the signature of the inmate verifying that he had received the property. No discrepancies were noted on the property inventory form signed by 'T. Haynes'. We understand that it is Mr. Haynes' position that the Department procedures were not followed. However, after reviewing the record, we cannot say that there were any legal errors or that the findings made by Commissioner Smart were clearly wrong. Therefore, the law requires that the judgment appealed be affirmed.

The judgment appealed is affirmed and this opinion is issued in compliance with Uniform Rules Courts of Appeal, Rule 2-16.1.B. Costs are assessed to appellant, Thomas Haynes.

AFFIRMED.