

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA

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LORETTA G. WHYTE  
CLERK

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**DINO JAY SCHWERTZ**

**CIVIL ACTION**

**VERSUS**

**NO. 09-018**

**SCOTT GARNER, ET AL**

**SECTION "D"(3)**

**ORDER**

The Court, having considered the petition, the record, the applicable law and the Report and Recommendation of the United States Magistrate Judge, and the failure of any party to file an objection to the Magistrate Judge's Report and Recommendation, hereby approves the Report and Recommendation of the United States Magistrate Judge and adopts it as its opinion in this matter. Therefore;

**IT IS ORDERED** that plaintiff's habeas corpus claim is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust state court remedies.

**IT IS FURTHER ORDERED** that plaintiff's claims pursuant to 42 U.S.C. § 1983 are **DISMISSED WITH PREJUDICE**.

New Orleans, Louisiana, this 9 day of Feb, 2009.

  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

\_\_\_ Fee \_\_\_\_\_  
\_\_\_ Process \_\_\_\_\_  
 Dkt'd \_\_\_\_\_  
\_\_\_ CtRmDep \_\_\_\_\_  
\_\_\_ Doc. No. \_\_\_\_\_