

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

JIMMY W. MAGEE

CIVIL ACTION

VERSUS

NO. 09-0167

**SHERIFF ROBERT CROWE,
WARDEN D. TOPPS**

SECTION: "I"(4)

ORDER

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


IT IS ORDERED that Jimmy W. Magee's 42 U.S.C. § 1983 claims against the defendants, Sheriff Robert Crowe, in both his individual and official capacities, and against Warden Demille Topps, in his official capacity only, are **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim for which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A and 42 U.S.C. § 1997.

IT IS FURTHER ORDERED that Magee's § 1983 claims against the defendant, Warden Topps, in his individual capacity, alleging (1) unsanitary living conditions, (2) denial of a mat or bunk, (3) disciplinary actions and loss of Privileges, (4) denial of access to the law library, (5) inadequate medical care, (6) inadequate outdoor recreation, and (7) verbal threats by Deputy

Brumfield, are **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim for which relief can be granted pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A and 42 U.S.C. § 1997.

Magee's § 1983 claim against Warden Topps, in his individual capacity, alleging denial of access to newspapers shall proceed forward and remain referred to the assigned Magistrate Judge for further proceedings in accordance with the 28 U.S.C. § 636 and the local rules of the court.

New Orleans, Louisiana, this 28th day of April, 2010.



LANCE M. AFRICK
UNITED STATES DISTRICT JUDGE