

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

HENRY MULLER

CIVIL ACTION

VERSUS

NO. 09-3362

ST. TAMMANY PARISH, ET AL

SECTION "N"(4)

ORDER

The Court, having considered the complaint, the record, the applicable law, 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 Henry Muller's claims brought pursuant to 42 U.S.C. § 1983 against the defendants, St. Tammany Parish, St. Tammany Parish Sheriff's Office, St. Tammany Parish School Board, District Attorney Walter Reed, Northshore High School, James Scott Winther (Sr.), James Scott Winther, Jr., and Shannon Michelle Winther, are **DISMISSED WITH PREJUDICE** as frivolous, for failure to state a claim for which relief may be granted, and/or for seeking relief against an immune defendant, pursuant to 28 U.S.C. § 1915(e)(2)(b).

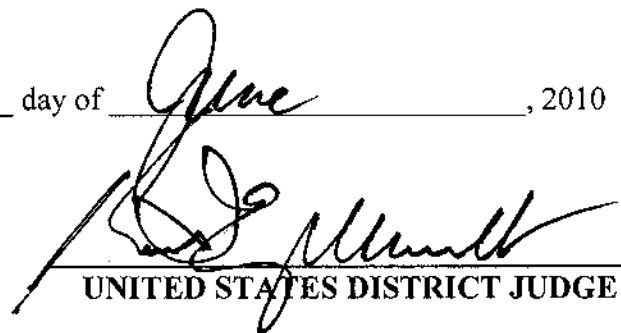
IT IS FURTHER ORDERED that Muller's § 1983 claim of malicious prosecution are **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim for which relief can be granted pursuant to § 1915(e)(2)(b).

IT IS FURTHER ORDERED that Muller's § 1983 claims against the defendants, Jason M. Mire, Keith J. Schenck, and Mark Oster, for illegal search and seizure and falsifying police reports and affidavits, are **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim for which relief can be granted pursuant to § 1915(e)(2)(b), until such time as the conditions set forth in *Heck v. Humphrey*, 512 U.S. 477, 487 (1994) are met.

IT IS FURTHER ORDERED that the **Rule 12(b)(6) Motion to Dismiss, or in the Alternative, Motion for a More Definite Statement Pursuant to FRCP Rule 12(e) (Rec. Doc. No. 13)** filed by the St. Tammany Parish School Board; the **Rule 12(b)(6) Motion to Dismiss (Rec. Doc. No. 19)** filed by St. Tammany Parish; **Rule 12(b)(6) Motion to Dismiss (Rec. Doc. No. 20)** filed by St. Tammany Parish District Attorney Walter Reed; the **Motion to Dismiss (Rec. Doc. No. 30)** filed by Jason Mire, Keith Schenck, Mark Oster, and the St. Tammany Parish Sheriff's Office; and the **Motion to Dismiss (Rec. Doc. No. 35)** filed by James Scott Winther (Sr.), Shannon Michelle Winther, and James Scott Winther, Jr. are **DISMISSED as moot**.

IT IS FURTHER ORDERED that Muller's claims, if any, raised under Louisiana law, against the defendants, St. Tammany Parish, St. Tammany Parish Sheriff's Office, St. Tammany Parish School Board, District Attorney Walter Reed, Northshore High School, James Scott Winther (Sr.), James Scott Winther, Jr., Shannon Michelle Winther, Jason M. Mire, Keith J. Schenck, and Mark Oster, are **DISMISSED WITHOUT PREJUDICE** because the Court declines to exercise its supplemental jurisdiction.

New Orleans, Louisiana, this 3rd day of June, 2010


UNITED STATES DISTRICT JUDGE