

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

RAGILLE HARRY DUPLESSIS
VERSUS
THE CITY OF NEW ORLEANS

CIVIL ACTION
NO. 09-4150
SECTION "D" (4)

ORDER

Having considered the record, the applicable law, the Report and Recommendation of the United States Magistrate Judge, and the objection and supplemental objection to the Magistrate Judge's Report and Recommendation filed by Plaintiff on August 7, 2009 and August 11, 2009, respectively, (Rec. Doc. Nos. 12 and 13), the court 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, because the instant Title 42 U.S.C. § 1983 complaint filed by the Plaintiff, Ragille Harry Duplessis, against the City of New Orleans is duplicative of another pending pending suit, No. 08-5149, filed by Plaintiff, the instant complaint is "malicious" under Title 28 U.S.C. § 1915(e)(2)(B) and § 1915A, and thus this instant suit, No. 09-4150, is **DISMISSED WITHOUT PREJUDICE** to Plaintiff's prosecution of No. 08-5149; *otherwise*, the instant suit, No. 09-4150, is **DISMISSED WITH PREJUDICE**. *Pittman v. Moore*, 980 F.2d 994, 995 (5th Cir. 1993); and

IT IS FURTHER ORDERED that the **Motions for Summary Judgment (Rec. Doc. Nos. 4 and 8)** and **Motion to Amend the Petition (Rec. Doc. No. 9)** filed by the Plaintiff, Ragille Harry Duplessis, are **DENIED** as moot.

New Orleans, Louisiana, this **18th** day of **August, 2009**.



UNITED STATES DISTRICT JUDGE
A. J. McNamara