

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ROBERT JACIAN DAVIS

CIVIL ACTION

VERSUS

NO. 16-15591

SEC. JAMES LEBLANC ET AL.

SECTION "H"(2)

ORDER

The Court, having considered the complaint, the record, the applicable law, the Report and Recommendation of the United States Magistrate Judge, and the plaintiff's objections 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.

The Court notes Plaintiff's request to amend his Complaint to dismiss his claims of racial discrimination and loss of good time, while retaining his claims regarding inadequate medical care and access to the law library. The magistrate judge, however, conducted a *Spears* hearing in which Plaintiff was allowed to further explain his claims in the nature of an amended complaint. *See Adams v. Hansen*, 906 F.2d 192, 194 (5th Cir. 1990) ("Spears hearing is . . . in the nature of an amended complaint or a more definite statement."). The magistrate judge then adequately addressed Plaintiff's claims relating to medical care (*See*

Doc. 38, p.26) and access to the law library (*See* Doc. 38, p.38). Accordingly, further amendment would be futile, and this Court adopts the magistrate's reasoning as its own.

Accordingly;

IT IS ORDERED that (1) plaintiff's motions for injunctive relief or temporary restraining order, Record Doc. Nos. 5, 16, 26 and 28, are **DENIED**, and (2) plaintiff's complaint is hereby **DISMISSED WITH PREJUDICE** as legally frivolous and/or for failure to state a claim under 28 U.S.C. § 1915(e)(2) and 42 U.S.C. § 1997e(c)(1).

New Orleans, Louisiana, this 13th day of March 2017.



JANE TRICHE MILAZZO
UNITED STATES DISTRICT
JUDGE