

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

LAZANDY TRAMAINE DANIELS

CIVIL ACTION

VERSUS

NO. 17-5465

UNITED STATES OF AMERICA, BRANDON
S. LONG, DUANE A. EVANS

SECTION "H"(4)

ORDER

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

IT IS ORDERED that the **Motion to Dismiss (Rec. Doc. No. 8)** filed by defendants, United States of America, Assistant United States Attorney Brandon S. Long, and Acting United States Attorney Duan A. Evans, is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff Lazandy Daniels's claims under 42 U.S.C. § 1983 and *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), against the United States of America are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction

IT IS FURTHER ORDERED that Daniels's §1983/*Bivens* claims based on wrongful decision to pursue criminal charges against the defendants, Assistant United States Attorney Brandon S. Long, and Acting United States Attorney Duane A. Evans, are **DISMISSED WITH PREJUDICE** based on absolute prosecutorial immunity.

IT IS FURTHER ORDERED that Daniels's §1983/*Bivens* claims challenging his detention, pretrial criminal proceedings, and conviction based on false factual statements and failure to train against the defendants Long and Evans are **DISMISSED WITH PREJUDICE** until such time as the conditions outlined in *Heck v. Humphrey*, 512 U.S. 477 (1994), are met.

New Orleans, Louisiana, this 10th day of May, 2018.



JANE TRICHE MILAZZO
UNITED STATES DISTRICT JUDGE