

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

CEDRIC HUTTON

CIVIL ACTION

VERSUS

NO. 17-8071

KRISTNA SHANMUGOM

SECTION "R" (4)

ORDER AND REASONS

Plaintiff Cedric Hutton, an individual currently incarcerated at the Elayn Hunt Correctional Center in St. Gabriel, Louisiana, filed this *pro se* complaint under 42 U.S.C. § 1983 against a physician who performed his eye surgery.¹ The Court has reviewed *de novo* the complaint,² the applicable law, the Magistrate Judge's Report and Recommendation,³ and plaintiff's objections to the Report and Recommendation.⁴ For the following reasons, the Court approves the Magistrate Judge's recommendation that plaintiff's complaint should be dismissed.

As the Magistrate Judge explained, plaintiff's claims are governed by the Louisiana Medical Malpractice Act (LMMA).⁵ Because plaintiff's claims do not arise under federal or constitutional law, this Court has jurisdiction

¹ R. Doc. 1.

² *Id.*

³ R. Doc. 9.

⁴ R. Doc. 10.

⁵ R. Doc. 9 at 3.

over his LMMA claims only if there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000. 28 U.S.C. §§ 1331, 1332. Plaintiff does not assert that there is diversity of citizenship between the parties. The Court therefore has no jurisdiction over the action.

Even if the Court did have jurisdiction over the action, plaintiff's complaint must be dismissed for the separate reason explained by the Magistrate Judge. Plaintiff's LMMA claims must be submitted to a medical review panel prior to filing suit, so his complaint is premature.⁶

Accordingly, plaintiff's complaint is DISMISSED WITHOUT PREJUDICE. Plaintiff's motion to appoint counsel to assist him with his medical malpractice claim⁷ is also DISMISSED, because the Court does not have jurisdiction over this action.

New Orleans, Louisiana, this 19th day of December, 2018.


SARAH S. VANCE
UNITED STATES DISTRICT JUDGE

⁶ *Id.* at 3.

⁷ R. Doc. 11.