

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

LARRY DAVIS

CIVIL ACTION

VERSUS

NO. 22-2551

JOSEPH LOPINTO


SECTION: D (1)

ORDER AND REASONS

The Court, having considered *de novo* Plaintiff Larry Davis' 28 U.S.C. § 2254 Petition,<sup>1</sup> the record, the applicable law, the Report and Recommendation of the United States Magistrate Judge,<sup>2</sup> and the failure of the Plaintiff to file any objection to the Magistrate Judge's Report and Recommendation,<sup>3</sup> hereby approves the Report and Recommendation and adopts it as its opinion in this matter. In doing so, the Court notes that it has construed Plaintiff Larry Davis' *pro se* pleading liberally.<sup>4</sup>

**IT IS HEREBY ORDERED** that Plaintiff's 28 U.S.C. § 2254 claims alleged in the Petition<sup>5</sup> against Defendant, Joseph Lopinto, are **DISMISSED, with prejudice**, pursuant to 28 U.S.C. § 1915(e) and § 1915A as frivolous and malicious, for the reasons stated in the Report and Recommendation.

New Orleans, Louisiana, October 5, 2022.

  
WENDY B. VITTER  
United States District Judge

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<sup>1</sup> R. Doc. 3.

<sup>2</sup> R. Doc. 6.

<sup>3</sup> Objections were due September 20, 2022. Because Plaintiff is proceeding *pro se*, the Court has allowed additional time for objections. None have been filed as of the date of this Order.

<sup>4</sup> See *Coleman v. United States*, 912 F.3d 824, 828 (5th Cir. 2019).

<sup>5</sup> R. Doc. 3.