

## UNITED STATES DISTRICT COURT

## MIDDLE DISTRICT OF LOUISIANA

MERRICK CARTER (#314080)

VERSUS

BURL CAIN - HEAD WARDEN, ET AL

CIVIL ACTION

NO. 07-0116-JVP-DLD

**RULING**


The court has carefully considered the petition, the record, the law applicable to this action, and the Report and Recommendation of United States Magistrate Judge Docia L. Dalby dated June 17, 2010 (doc. 49). Plaintiff has filed an objection (doc. 50) which merely restates legal argument and does not require de novo findings under 28 U.S.C. 636.

The court hereby approves the report and recommendation of the magistrate judge and adopts it as the court's opinion herein.

Accordingly, plaintiff's claims asserted against James Tyler, Curtis Celestine, "Sgt. Johnson", "Sgt. Blackmore", "Sgt. Lewis", "Sgt. Griffin", "Sgt. Mealey", "Sgt. Gordon" and the "C-Team D-Team at Camp J, Camp C Jaguar" are dismissed for failure of the plaintiff to serve these defendants within 120 days as mandated by Rule 4(m) of the Federal Rules of Civil Procedure. The Motion for Summary Judgment of defendants Andrea Ferguson, Johnny Howard, David Ross, Jr., James Wilkinson, Burl Cain, Newman Dupas, Eric Burkes, Louis Boyd, Danny Bonner and Joshwa Cain (doc. 30) is granted, dismissing the plaintiff's claims asserted against these defendants for failure of the plaintiff to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e, and this matter is referred back

for further proceedings relative to the plaintiff's claims asserted against the remaining defendant, Walter Newman.

Baton Rouge, Louisiana, ~~July~~<sup>August 11,</sup>, 2010.

  
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JOHN V. PARKER, JUDGE  
MIDDLE DISTRICT OF LOUISIANA