

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MICHAEL CLENNON (#323402)

VERSUS

CIVIL ACTION

JAMES M. LEBLANC, ET AL

NUMBER 08-677-JVP-DLD

NOTICE

Please take notice that the attached Magistrate Judge's Report has been filed with the Clerk of the U. S. District Court.

In accordance with 28 U.S.C. § 636(b)(1), you have ten days after being served with the attached report to file written objections to the proposed findings of fact, conclusions of law, and recommendations set forth therein. Failure to file written objections to the proposed findings, conclusions and recommendations within ten days after being served will bar you, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court.

ABSOLUTELY NO EXTENSION OF TIME SHALL BE GRANTED TO FILE WRITTEN OBJECTIONS TO THE MAGISTRATE JUDGE'S REPORT.

Signed in Baton Rouge, Louisiana, on May 15, 2009.



MAGISTRATE JUDGE DOCIA L. DALBY

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MAGISTRATE JUDGE'S REPORT

Before the court is the defendants' Motion to Dismiss. Record document number 16. The motion is opposed.¹

Pro se plaintiff, an inmate confined at Louisiana State Penitentiary, Angola, Louisiana, filed this action pursuant to 42 U.S.C. § 1983 against Louisiana Department of Public Safety and Corrections Secretary James LeBlanc, Warden N. Burl Cain, Trish Foster, Joshua Cain, Walter Newman, Rodrick Veals², and Claire Griffin. Plaintiff alleged that the defendants failed to protect him from attack by a fellow inmate in violation of his constitutional rights.

Defendants moved to dismiss the plaintiff's claims against Rodrick Veals pursuant to Rule 12(b)(5) for failure to serve the complaint within 120 days of filing the complaint.

A review of the record showed that Veals was served with the complaint on May 4,

¹ Record document number 18.

² The defendant was identified as Roderick Veal in the complaint. Plaintiff subsequently amended the complaint to identify the defendant as Rodrick Veals. Record document number 18.

2009.³

RECOMMENDATION

It is the recommendation of the magistrate judge that the defendants' motion to dismiss be denied.

Signed in Baton Rouge, Louisiana, on May 15, 2009.



MAGISTRATE JUDGE DOCIA L. DALBY

³ Record document number 25.