

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

FILED  
U.S. DIST. COURT  
MIDDLE DIST. OF LA

2009 AUG 12 P 2:17

BY DEPUTY CLERK

BOBBY SMITH (#104536)

VERSUS

CIVIL ACTION NO.: 08-698-JVP-SCR

N. BURL CAIN, ET AL

### 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 Riedlinger dated June 19, 2009 (doc. 18). Defendant and plaintiff have filed objections which merely restate legal argument and does not require *de novo* factual findings under 28 U.S.C. § 636.

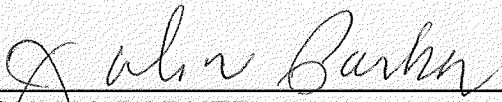
The court hereby approves the report and recommendation of the magistrate judge and adopts it as the court's opinion herein.

Accordingly, petitioner's application for habeas corpus relief shall be **DENIED** as to Grounds 1 through 6.

Further, counsel shall be appointed by the Magistrate Judge to represent petitioner, pursuant to Rule 8(c), Rules Governing Section 2254 Cases, and as provided by the Criminal Justice Act, 28 U.S.C. § 3006A(a)(2)(B). Newly appointed counsel shall move for an evidentiary hearing to be held on Ground 7, specifically,

whether the State exercised its peremptory challenges in a racially discriminatory manner, thereby violating petitioner's Fourteenth Amendment rights.

Baton Rouge, Louisiana, August 11, 2009.

  
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JOHN V. PARKER  
UNITED STATES DISTRICT JUDGE  
MIDDLE DISTRICT OF LOUISIANA