

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

TERRENCE KNIGHT BENOIT (#489486)

CIVIL ACTION

VERSUS

NO. 09-715-JJB-CN

LOUISIANA STATE PENITENTIARY, 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 Christine Noland dated February 25, 2010 (doc. no. 12) to which no objection has been filed.

The court hereby approves the report and recommendation of the magistrate judge and adopts it as the court's opinion herein. Accordingly, the plaintiff's claims asserted against the Louisiana State Penitentiary, the Louisiana Department of Public Safety and Corrections, and the 20th Judicial District for the State of Louisiana are DISMISSED as barred by the Eleventh Amendment to the United States Constitution, the plaintiff claims asserted against defendant Burl Cain are DISMISSED, and the plaintiff's claims asserted pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., are DISMISSED for failure to state a claim upon which relief may be granted. Further this matter is referred back for further proceedings in connection with the plaintiff's claim of excessive force asserted against defendant Steven Bernard.

Baton Rouge, Louisiana, this 18th day of March, 2010.



JAMES J. BRADY, JUDGE
MIDDLE DISTRICT OF LOUISIANA