

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

BRUCE STIPE
(#152145)

VERSUS

SETH SMITH, ET AL

CIVIL ACTION

NO. 10-0576-BAJ-CN

RULING

The Court has carefully considered the motion to dismiss, the record, the law applicable to this action, and the Report and Recommendation of United States Magistrate Judge Christine Noland dated July 7, 2011 (doc. 89). Plaintiff has filed objections to the Magistrate Judge's Report and Recommendation (docs. 90 and 91) which merely restates legal argument and do 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, defendants' Motion to Dismiss with Prejudice as Rule 11 Sanction, (doc. 86), is granted in part, such that the Court deems as proven in this case that on the date of the accident complained of, June 11, 2010, the plaintiff was assigned to a lower bunk on Tier C at the EHCC Beaver 5 housing unit and was on that date housed in a cell

which was not occupied by a co-inmate. This action is referred back to Magistrate Judge Christine Noland for further proceedings.

Baton Rouge, Louisiana, July 20, 2011.

A handwritten signature in black ink, appearing to read "Brian A. Jackson", written in a cursive style.

BRIAN A. JACKSON
UNITED STATES DISTRICT JUDGE
MIDDLE DISTRICT OF LOUISIANA