

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

TED DURBIN (#132464)

VERSUS

BURL CAIN, WARDEN, ET AL.

CIVIL ACTION

NO. 10-655-JJB-CN

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 May 9, 2011 (doc. no. 32) 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 Msgt. Turner are DISMISSED for failure of the plaintiff to serve this defendant within 120 days as mandated by Rule 4(m) of the Federal Rules of Civil Procedure. Further, the defendants' Motion to Dismiss (doc. no. 13) is GRANTED IN PART, dismissing the plaintiff's claims asserted against defendants Leslie Dupont, Richard Peabody, Ronnie Jett, Bruce Dodd, Tim Delaney, Troy Poret, Joseph Lamartinere, Cathy Fontenot, Robert Toney, Brad DeLaughter, Landry Valant, Randy Barrios, Kevin Benjamin and Chad Darbonne, with prejudice, dismissing the plaintiff's claims asserted against the remaining defendants, Burl Cain and Darrel Vannoy, for monetary damages in the defendants' official capacities, and this action is referred back for further proceedings in connection with the plaintiff's claims that his First Amendment right to freely practice his religion and his Fourteenth Amendment right to equal protection have been violated by the defendants' refusal to allow him to congregate with members of his faith and refusal to allow him to

attend services and gatherings of the Jewish community at the main prison complex (as do members of other religious faiths at LSP), and that prison officials refuse to recognize Jewish holy days or afford inmates an opportunity to congregate, worship or attend services on such days.

Baton Rouge, Louisiana, this 3<sup>rd</sup> day of June, 2011.



JAMES J. BRADY, JUDGE  
MIDDLE DISTRICT OF LOUISIANA