

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

DERRICK JEROME ALLEN (#295151)

CIVIL ACTION

VERSUS

NO. 10-753-JJB-DLD

KIP HOLDEN, ET AL.

**RULING**

The Court has carefully considered the complaint, the record, the law applicable to this action, and the Report of United States Magistrate Judge Docia L. Dalby dated June 14, 2011 (doc. no. 50). The defendants filed an objection conceding the recommendation's motion to quash service.

The magistrate judge took the Motion to Dismiss as per Rule 12(b)(5) and construed it as a motion to quash service. Upon examination this interpretation is found appropriate and substantially equitable. The plaintiff tendered all control of the service to the Marshall's office, retaining no control over the time, place and manner in which the defendant's were served.

The Court hereby approves the Report and the recommendation of the magistrate judge and adopts them as the Court's opinion herein.

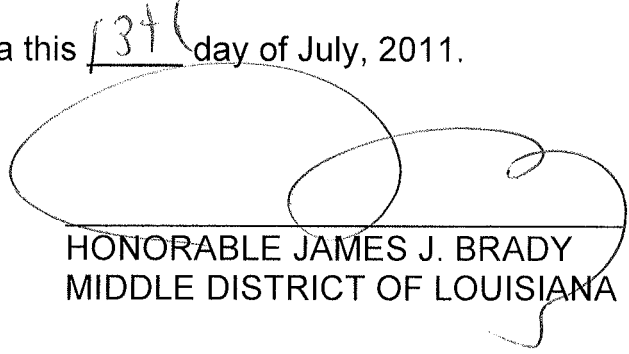
Accordingly, the Court will GRANT the Motion to Dismiss construed as a motion to quash service upon defendants, giving the plaintiff an additional

opportunity to serve the defendants within forty-five (45) days from the date of this ruling.

After proper service, proceedings will continue regarding the plaintiff's claim pursuant to 42 U.S.C §1983.

Defendants may file all objections pursuant to Rule 12(b)(6) once all process has been completed so as to examine the pleadings. Please note this is not a ruling on the validity of defendant's Rule 12(b)(6) objections.

Signed in Baton Rouge, Louisiana this 31 day of July, 2011.



HONORABLE JAMES J. BRADY  
MIDDLE DISTRICT OF LOUISIANA