

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

LUCAS RODDY (#458846)

VERSUS

BURL CAIN, WARDEN, ET AL

CIVIL ACTION

NO. 10-800-RET

**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 12, 2011. Plaintiff has filed an objection which the court has considered.

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

Accordingly, the portion of petitioner's claim asserted in his Supplemental Memorandum of Law (rec.doc. 10) relating to the state trial court's denial of post-conviction DNA testing based upon "newly discovered evidence" shall be dismissed without prejudice as unexhausted and his remaining exhausted claims contained in his Petition for Writ of Habeas Corpus (rec.doc. 1) and Supplemental Memorandum (rec.doc. 10) will be dismissed with prejudice as untimely-filed.

Baton Rouge, Louisiana, July 14, 2011.



~~RALPH E. TYSON, CHIEF JUDGE~~  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA