

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JOHN H. JONES (#313554)

CIVIL ACTION

VERSUS

WARDEN CATHY FONTENOT, ET AL.

NO. 10-0806-FJP-CN

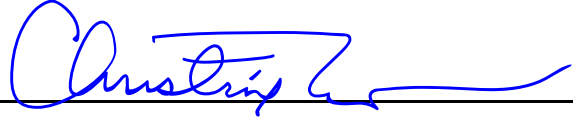
O R D E R

This matter comes before the Court on the plaintiff's "Motion for Request", rec.doc.no. 36, pursuant to which he apparently requests leave of Court to re-assert his claims in a separate civil proceeding, "after a proper exhaustion of remedies". This motion shall be granted in part and denied in part. Inasmuch as the recent Magistrate Judge's Report in this case recommends dismissal of the plaintiff's Complaint, without prejudice, for failure to exhaust administrative remedies, the plaintiff may certainly exercise his right to file a separate civil action after exhaustion. However, to the extent that his motion may be interpreted as seeking to alter the Court's Recommendation that the dismissal of this case be "with prejudice to his refiling the same claim or claims in forma pauperis" (relying upon Underwood v. Wilson, 151 F.3d 292 (5th Cir. 1998)), the Court declines to alter its Recommendation in this regard. Accordingly, any subsequent action filed by the plaintiff wherein the same claim or claims are asserted must be accompanied by payment of the full amount of the Court's filing fee. Accordingly,

IT IS ORDERED that the plaintiff's "Motion for Request", rec.doc.no. 36, be and it is hereby **GRANTED IN PART**, such that the plaintiff's right to re-assert his claims in a separate civil proceeding is acknowledged,

but **DENIED IN PART**, to the extent that the plaintiff seeks entitlement to re-assert the same claim or claims in forma pauperis.

Signed in chambers in Baton Rouge, Louisiana, September 19, 2011.

A handwritten signature in blue ink, appearing to read "Christine Noland", is written over a solid black horizontal line.

MAGISTRATE JUDGE CHRISTINE NOLAND