

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

GLEN WELCH (#371185)

VERSUS

CIVIL ACTION

CADET B. HARDY, ET AL

NUMBER 12-544-JJB-SCR

RULING

This matter is before the court on the plaintiff's Motion to Alter or Amend the Judgment which shall be treated as a motion for new trial pursuant to Rule 59, Fed.R.Civ.P. Record document number 34.

Pro se plaintiff, an inmate confined in Louisiana State Penitentiary, Angola, Louisiana, filed this action pursuant to 42 U.S.C. § 1983 against Cadet Brandon Hardy, Sgt. Louis Boyd, Sgt. David Stroud and Warden Burl Cain. Plaintiff alleged that the defendants failed to protect him from attack by a fellow inmate in violation of his constitutional rights.

A magistrate judge's report was issued on April 11, 2013, recommending that the defendants' motion for summary judgment be granted.¹ Plaintiff did not file an objection to the magistrate judge's report.

Judgment was entered on April 30, 2013, dismissing this matter

¹ Record document number 30.

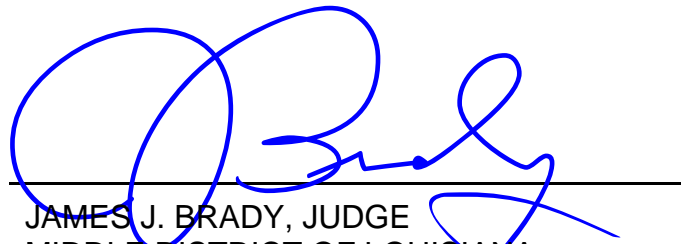
without prejudice to any state law claim.²

On May 17, 2013, the plaintiff moved to have the entry of judgment set aside on the grounds that the court erroneously determined that there were no factual issues in dispute which rendered summary judgment inappropriate. Plaintiff argued that although he did not artfully plead his case, and he failed to oppose the defendants' motion for summary judgment and object to the magistrate judge's report, the court should nonetheless set aside the judgment and permit him a fair opportunity to prove his claims.

Plaintiff has failed to satisfy the prerequisites necessary to be relieved from judgment.

Accordingly, the plaintiff's Motion to Alter or Amend the Judgment, treated as a motion for new trial pursuant to Rule 59, is denied.

Baton Rouge, Louisiana, June 3, 2013.



JAMES J. BRADY, JUDGE
MIDDLE DISTRICT OF LOUISIANA

² Record document number 32.