

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

FREDDIE MARSALIS (#451967)

CIVIL ACTION

VERSUS

N. BURL CAIN, ET AL.

NO.: 12-00799-BAJ-RLB

RULING AND ORDER

On January 7, 2014, the United States Magistrate Judge issued a Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1), recommending that Plaintiff Freddie Marsalis's claims against Defendants Classification Officer Williams and Col. J. Smith be dismissed, without prejudice, for failure of Plaintiff to serve these defendants within 120 days as mandated by Fed. R. Civ. P. 4(m); that the Court decline the exercise of supplemental jurisdiction over Plaintiff's state law claims; and that the Defendants' Motion for Partial Summary Judgment (Doc. 17) be granted, dismissing Plaintiff's claims asserted against the remaining Defendants, in part for failure to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e, and in part as being without substantive merit, and that this action be dismissed. (Doc. 26.)

The Magistrate Judge's Report and Recommendation specifically notified Plaintiff that, pursuant to 28 U.S.C. § 636(b)(1), he had fourteen (14) days from the date he received the Report and Recommendation to file written objections to the proposed findings of fact, conclusions of law, and recommendations therein. (Doc. 26,

at 1.) A review of the record indicates that Plaintiff has not filed an objection to the Magistrate Judge's Report and Recommendation.

Having carefully considered the Magistrate Judge's Report, the record, and the applicable law, the Court concludes that the Magistrate Judge's Report is correct, and hereby adopts its findings of fact, conclusions of law, and recommendation.¹

Accordingly,

IT IS ORDERED that the **Magistrate Judge's Report (Doc. 26)** is **ADOPTED** as the Court's opinion herein.

IT IS FURTHER ORDERED that Plaintiff Freddie Marsalis's claims against Defendants Classification Officer Williams and Col. J. Smith are **DISMISSED, without prejudice**, for failure of Plaintiff to serve these defendants within 120 days as mandated by Fed. R. Civ. P. 4(m).

IT IS FURTHER ORDERED that the **Defendants' Motion for Partial Summary Judgment (Doc. 17)** is **GRANTED**, dismissing Plaintiff's claims asserted against the remaining Defendants, in part for failure to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e, and in part as being without substantive merit.

¹ The Defendants designated their motion as a Motion for Partial Summary Judgment. (Doc. 17.) However, after a review of the record and the Report and Recommendation, the Court notes that the Defendants' motion actually seeks a dismissal of all claims asserted against them. Moreover, the Report and Recommendation treats the motion as a Motion for Summary Judgment. *See* Doc. 26. Thus, the Court adopts the undisputed findings of the Report and Recommendation and will treat the motion as a Motion for Summary Judgment.

IT IS FURTHER ORDERED that the above captioned matter is **DISMISSED**, and the Court declines to exercise supplemental jurisdiction over Plaintiff's state law claims.

Baton Rouge, Louisiana, this 31st day of January, 2014.

A handwritten signature in blue ink, appearing to read "Brian A. Jackson", written over a horizontal line.

**BRIAN A. JACKSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**