

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MATT BANKS (#116002)

CIVIL ACTION

VERSUS

NO. 13-144-JJB-SCR

N. BURL CAIN, ET AL.

**RULING AFFIRMING AND ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATIONS**

This matter is before the Court on the defendants Warden N. Burl Cain, Trish Foster, Dr. Jason Collins, and Dr. Randy Lavespere's Motion (doc. 45) for Partial Summary Judgment. In the Report and Recommendations (doc. 58) of United States Magistrate Judge Stephen Riedlinger, dated June 9, 2014, the Magistrate Judge recommended that the defendants' Motion (doc. 45) for Partial Summary Judgment be granted and this action be dismissed. He further recommended that the plaintiff's claims against Warden N. Burl Cain and Trish Foster be dismissed without prejudice for failure to exhaust available administrative remedies pursuant to 42 U.S.C. § 1997e(a), and with prejudice to refiling the complaint in forma pauperis. Subsequently, the plaintiff filed an objection (doc. 59) to the Report and Recommendations.

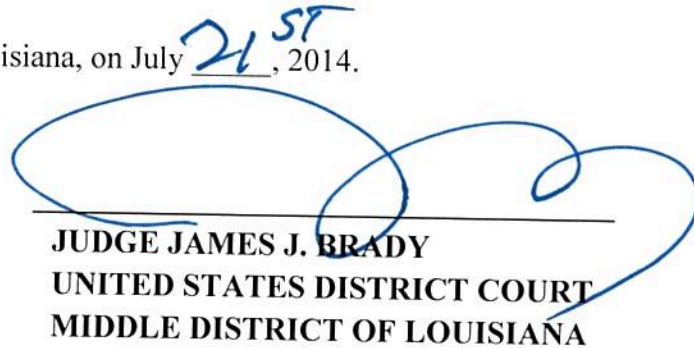
The Magistrate Judge found that the plaintiff failed to exhaust available administrative remedies regarding any claim against defendants Cain and Foster and that there is no evidence in the record showing the existence of a material issue for trial with respect to the plaintiffs' claims against Dr. Collins or Dr. Lavespere.

The Court has considered the parties arguments, the applicable law, and the Report and Recommendations of United States Magistrate Judge Riedlinger. The Court finds that the Magistrate Judge's findings of fact, conclusions of law, and recommendations are correct and

that the plaintiff's objection consists of arguments that have been properly considered and resolved by the Magistrate Judge.

After review, the Court hereby **AFFIRMS** and **ADOPTS** the Magistrate Judge's Report and Recommendations (doc.58). Accordingly, the defendants' Motion for Partial Summary Judgment is **GRANTED**. In accordance, the Plaintiff's claims against Dr. Collins and Dr. Levaspere are **DISMISSED**. Furthermore, the Plaintiff's claims against N. Burl Cain and Trish Foster are **DISMISSED** for failure to state a claim, based on the Plaintiff's failure to exhaust available administrative remedies pursuant to 42 U.S.C. § 1997e(a), and **WITH PREJUDICE** to refiling the complaint in forma pauperis.

Signed in Baton Rouge, Louisiana, on July 21ST, 2014.



JUDGE JAMES J. BRADY
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA