

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

DONALD THOMAS (#381628)

CIVIL ACTION

VERSUS

NUMBER 13-673-JWD-SCR

N. BURL CAIN, ET AL

OPINION

After independently reviewing the entire record in this case and for the reasons set forth in Magistrate Judge Riedlinger's Report dated January 29, 2015 (Doc. 33), to which an objection was filed, (Doc. 34), the Court adopts the Magistrate Judge's Report and Recommendation. In his objection, Plaintiff argues that, contrary to the Magistrate Judge's finding, that Plaintiff did file Request for Admissions and argues that Defendants' failure to answer same should be used to support Plaintiff's Motion for Summary Judgment. In support of his argument that the Request for Admissions was filed, he attaches as Exhibit A, the first page of his First Request for Discovery Production Documents (Doc. 34-1). Exhibit A shows that Louisiana State Penitentiary scanned and emailed 54 pages on February 28, 2014. Plaintiff does not attach the Request for Admissions he claims was emailed. Furthermore, the Court has reviewed the documents filed by Plaintiff on February 28, 2014 and there are no Request for Admissions filed. The Court agrees with the Magistrate Judge's conclusion that there were no Request for Admissions filed by Plaintiff. The Court agrees with the other findings and conclusions of the Magistrate Judge. Accordingly,

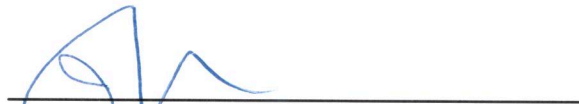
IT IS ORDERED that:

- (1) the defendants' Motion for Summary Judgment is granted in part, dismissing the plaintiff's Eighth Amendment deliberate medical indifference claims arising before June 8, 2012, and his claim based on the requirement that he

and other inmates make a co-payment insofar as such claim is based on a violation of the Eighth Amendment;

- (2) the plaintiff's Memorandum in Support of Motion for Summary Judgment is treated as a motion for summary judgment and is denied;
- (3) the court declines to exercise supplemental jurisdiction over any state law claims and that these claims are dismissed without prejudice; and,
- (4) this action is referred back to the Magistrate Judge for further proceedings on the plaintiff's Eighth Amendment deliberate medical indifference claims arising on or after June 8, 2012, based on the failure to provide hip and hernia surgery.

Signed in Baton Rouge, Louisiana, on February 11, 2015.



JUDGE JOHN W. deGRAVELLES
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA