

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

BRANDON S. LAVERGE (# 424227)

CIVIL ACTION

VERSUS

N. BURL CAIN, ET AL.

NO.: 15-00034-BAJ-EWD

RULING AND ORDER

Before this Court is the United States Magistrate Judge's **Report and Recommendation (Doc. 139)** pursuant to 28 U.S.C. § 636(b)(1). The Report and Recommendation addresses the Motion for Summary Judgment (Doc. 110) filed by the remaining Defendants in this case, Cain and Vaughn. The Magistrate Judge recommended that the Motion for Summary Judgment be denied because "Defendants failed completely to legally or factually address the core issue remaining in this proceeding, *i.e.*, the issue of the 'mail block' allegedly imposed by Defendants in December, 2014." (Doc. 139 at p. 6).

The Report and Recommendation notified the parties that, pursuant to 28 U.S.C. § 636(b)(1), they had fourteen (14) days from the date they received the Report and Recommendation to file written objections to the proposed findings of fact, conclusions of law, and recommendations therein. (Doc. 139 at p. 1). Plaintiff timely filed a traverse (Doc. 140). Defendants failed to respond.

Plaintiff objects to the Report and Recommendation on six grounds, only one of which is germane to the issue still before this Court.<sup>1</sup> Plaintiff contends that the Magistrate Judge analyzed the mail block issue under an incorrect legal standard. He argues that the “reasonable relationship standard” articulated in *Turner v. Safely*, 482 U.S. 78, 81 (1987), does not apply. Instead, he asserts that a more stringent standard applies because the mail block concerned outgoing mail. *See Thornburgh v. Abbott*, 490 U.S. 401, 411–12 (1989); *Procunier v. Martinez*, 416 U.S. 396, 413–14 (1974) *overruling recognized by Brewer v. Wilkinson*, 3 F.3d 816, 823–24 (5th Cir. 1993). The Magistrate Judge cited directly to *Thornburgh* and explained that prisons have a greater security interest in incoming mail than outgoing mail. (Doc. 139 at p. 7) (quoting Doc. 96 at pp. 25–26); *see also Brewer*, 3 F.3d at 824 (stating that *Thornburgh* suggests that *Safely’s* “test would also be applied to outgoing mail”). This Court is therefore satisfied that the Magistrate Judge articulated the correct legal standard.

Having carefully considered the underlying Complaint, the instant motions, and related filings, the Court approves the Magistrate Judge’s Report and Recommendation, and hereby adopts the findings of fact, conclusions of law, and recommendation.

Accordingly,

**IT IS ORDERED** that the **Magistrate Judge’s Report and Recommendation, (Doc. 139)**, is **ADOPTED** as the Court’s opinion herein.

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<sup>1</sup> The other objections concern issues disposed of in this Court’s earlier order dismissing all claims except those relating to the mail block. (*See* Doc. 99).

**IT IS FURTHER ORDERED** that Defendants' **Motion for Summary Judgment (Doc. 110)** is **DENIED**.

**IT IS FURTHER ORDERED** that this matter is referred back to the Magistrate Judge for further proceedings.

Baton Rouge, Louisiana, this 5<sup>th</sup> day of September, 2017.



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