

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

ANTONIUS L. JONES (#579275)

CIVIL ACTION NUMBER

VERSUS

15-158-SDD-SCR

JEANIE E. LOUQUE

**ORDER OF DISMISSAL**

On September 25, 2014, *pro se* Plaintiff, Antonius L. Jones, an inmate confined at Louisiana State Penitentiary, Angola, Louisiana, filed this action pursuant to 42 U.S.C. § 1983 against Jeanie E. Louque in the Western District of Louisiana. Although the approved § 1983 Complaint Form indicated that the *Complaint* should be filed in the Middle District of Louisiana, prison officials electronically filed the *Complaint* pursuant to the Procedural Rules for Prisoner Electronic Filing Pilot Project, General Order 2012-01 in the United States District Court for the Western District of Louisiana. A review of this Court's record showed that, on the same date, prison officials electronically filed an identical *Complaint* in the Middle District of Louisiana. See, *Antonius L. Jones v. Jeanie E. Louque*, 14-CV-614-BAJ-RLB, which remains pending on this Court's docket.

On March 12, 2015, the United States District Court for the Western District of Louisiana transferred this matter to the Middle District of Louisiana pursuant to 28 U.S.C. § 1406.

A federal court may dismiss a claim *in forma pauperis* "if satisfied that the action is

frivolous or malicious.”<sup>1</sup> A complaint is frivolous “if it lacks an arguable basis in law or fact.”<sup>2</sup> Duplicate and repetitive lawsuits are malicious for purposes of 28 U.S.C. § 1915(e)(2)(B)(I) and must be dismissed for that reason.<sup>3</sup>

In this case, it is apparent that this duplicate complaint was filed in error and is not malicious for purposes of 28 U.S.C. § 1915(e)(2)(B)(I). Nonetheless, when a successive *in forma pauperis* suit is duplicative, the Court should insure that the Plaintiff obtains “one bite at the litigation apple—but not more.”<sup>4</sup> The Court may either consolidate the two actions or dismiss the instant action without prejudice to the Plaintiff pursuing his other case.<sup>5</sup>

Therefore;

**IT IS HEREBY ORDERED** that 15-CV-158-SDD-SCR is dismissed without prejudice to the claims raised in 14-CV-614-BAJ-RLB.

Baton Rouge, Louisiana the 18 day of March, 2015.



**SHELLY D. DICK, DISTRICT JUDGE  
MIDDLE DISTRICT OF LOUISIANA**

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<sup>1</sup> *Moore v. McDonald*, 30 F.3d 616, 620 (5th Cir. 1994)(quoting former 28 U.S.C. § 1915(d), now incorporated in 28 U.S.C. § 1915(e), as amended).

<sup>2</sup> *Davis v. Scott*, 157 F.3d 1003, 1005 (5th Cir. 1998); *Reeves v. Collins*, 27 F.3d 174, 176 (5th Cir. 1994).

<sup>3</sup> *Potts v. Texas*, No. 08-41177, 2009 WL 3806073, at \*1 (5th Cir. Nov. 13, 2009) (citing *Pittman v. Moore*, 980 F.2d 994, 994-95 (5th Cir. 1993); *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988)).

<sup>4</sup> *Pittman*, 980 F.2d at 995.

<sup>5</sup> See *Pittman*, 980 F.2d at 994-95.