

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

**MICHAEL HEBERT (#263630)**

**CIVIL ACTION**

**VERSUS**

**NO. 15-850-JWD-RLB**

**CITY OF BATON ROUGE, ET AL.**

**RULING**

On June 6, 2018, the Magistrate Judge issued a Report and Recommendation (R. Doc. 318) recommending that the Motion for Summary Judgment filed on behalf of defendants City of Baton Rouge and Parish of East Baton Rouge be granted, and the plaintiff's claims against these defendants be dismissed without prejudice for failure to exhaust his administrative remedies. On or about June 12, 2018, the plaintiff filed a Traverse and Opposition/Objection (R. Doc. 322) to the Report and Recommendation, and alleged therein that he never received a copy of the Motion for Summary Judgment. After determining the plaintiff's allegation to be true, the Court ordered the Clerk of Court to forward a copy of the Motion to the plaintiff and the plaintiff was given 21 days to file an opposition. See R. Doc. 344. On or about July 30, 2018, the plaintiff filed his Opposition. See R. Doc. 353.

In opposition to the defendants' Motion for Summary Judgment, the plaintiff asserts that he attempted to exhaust his administrative remedies after he was transferred to Louisiana State Penitentiary where he was housed when he first gained knowledge of his claims against the defendants. As noted by the Magistrate Judge, the plaintiff's ARP ("LSP-2015-2498) contains complaints of negligence and gross negligence on the parts of Pine Prairie Correctional Center, LCS Corporation, the East Baton Rouge Parish Prison, and Sid

Gautreaux. The plaintiff has not identified any ARP where his claims against the defendants were addressed prior to the filing of his Complaint, and the Court has not located any such ARP in the record.

Having considered the plaintiff's Opposition and the entire record in this case, for the reasons set forth in the Magistrate Judge's Report dated June 6, 2018 (R. Doc. 318):

**IT IS ORDERED** that the defendants' Motion for Summary Judgment (R. Doc. 291) is granted, and the plaintiff's claims against the City of Baton Rouge and the Parish of East Baton Rouge are dismissed, without prejudice.

Signed in Baton Rouge, Louisiana, on September 19, 2018.



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