

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CLENANT NICKLES (#131849)

CIVIL ACTION

VERSUS

BURL CAIN, ET AL.

NO.: 16-00286-BAJ-RLB

RULING AND ORDER

Before the Court is the United States Magistrate Judge's **Report and Recommendation (Doc. 12)**, pursuant to 28 U.S.C. § 636(b)(1). The Magistrate Judge recommended that Plaintiff's claims asserted against Dr. J.D. Helms and Dr. John McCain be dismissed, without prejudice, for failure of Plaintiff to effect timely service upon them. (Doc. 12 at p. 9). The Magistrate Judge further recommended that the Motion to Dismiss (Doc. 10), filed on behalf of Defendants former Warden Burl Cain and Assistant Warden Stephanie Lamartiniere, be granted, and that Plaintiff's claims against Defendants Cain and Lamartiniere be dismissed, with prejudice. (*Id.*).

The Report and Recommendation notified Plaintiff that, pursuant to 28 U.S.C. § 636(b)(1), he had fourteen (14) days from the date he received the Report and Recommendation to file written objections to the proposed findings of fact, conclusions of law, and recommendations therein. (Doc. 12 at p. 1). Plaintiff timely filed an objection.¹

¹ Plaintiff's sole objection is a general objection to the dismissal of the claims against Defendants Cain and Lamartiniere. (*See* Doc. 13 at p. 1). Plaintiff's objection merely restates the facts presented in his complaint, but fails to demonstrate how the Magistrate Judge erred in the Report & Recommendation. (*See Id.* at 1-4). For Plaintiff to be entitled to relief, he must demonstrate that

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. 12)** is **ADOPTED** as the Court's opinion herein.

IT IS FURTHER ORDERED that Plaintiff's claims against Dr. J.D. Helms and Dr. John McCain are **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that Plaintiff's claims against Warden Burl Cain and Assistant Warden Stephanie Lamartiniere are **DISMISSED WITH PREJUDICE**.

Baton Rouge, Louisiana, this 21st day of June, 2017.



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

Defendants Cain or Lamartiniere were deliberately indifferent to Plaintiff's medical needs. *Farmer v. Brennan*, 511 U.S. 825, 834, 114 S. Ct. 1970, 1977, 128 L. Ed. 2d 811 (1994). Deliberate indifference requires more than a showing of mere negligence, and is akin to the subjective recklessness standard in criminal law. *Id.* at 837-39. However, Plaintiff's allegations do not demonstrate that either Defendant ignored Plaintiff's needs.