

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

LEONARDO CUSHENBERRY (#297345)

CIVIL ACTION

VERSUS

JAMES LEBLANC, ET AL.

NO.: 17-402-BAJ-EWD

RULING AND ORDER

Before the Court is the United States Magistrate Judge's **Report and Recommendation (Doc. 137)** pursuant to 28 U.S.C. § 636(b)(1). The Report and Recommendation addresses three Motions for Summary Judgment. It recommends that each of the two remaining Defendants' Motions for Summary Judgment (Docs. 109 & 122) be granted. Plaintiff Leonardo Cushenberry, an inmate confined at the Louisiana State Penitentiary in Angola appearing *pro se*, filed an Opposition (Doc. 136) to those Motions, which the Magistrate Judge construed as a cross-motion for summary judgment. The Magistrate Judge recommended that Plaintiff's Motion be denied. Finally, the Report and Recommendation addresses whether this Court is entitled to exercise supplemental jurisdiction over Plaintiff's potential state law claims.

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. 137 at p. 1). Plaintiff filed an

Objection (Doc. 138). Plaintiff brings several challenges to the Report and Recommendation, including that the Magistrate Judge exercised an abuse of discretion and misapplied standards of review by ignoring specified facts concerning physical suffering; that Plaintiff's failure to provide evidence of substantial harm is actually Defendants' fault; that Plaintiff refused medical treatment as a result of fear; and that he lacks access to cases cited in the Report and Recommendation. (Doc. 138 at p. 5–12). Upon review, the Court concludes that the Magistrate Judge accurately applied the law, and specifically addressed cases with fact patterns that compare to the injuries and facts alleged in Plaintiff's Complaint and serve to elaborate on the controlling law.

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

Accordingly,

IT IS ORDERED that the **Magistrate Judge's Report and Recommendation (Doc. 137)** is **ADOPTED** as the Court's opinion herein.

IT IS FURTHER ORDERED that Defendant Amanda Cowan's **Motion for Summary Judgment (Doc. 109)** is **GRANTED**.

IT IS FURTHER ORDERED that Defendant Jamie Cashio's **Motion for Summary Judgment (Doc. 122)** is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's Opposition, construed as a **Cross-Motion for Summary Judgment (Doc. 136)** is **DENIED**.

IT IS FURTHER ORDERED that the Court shall decline to exercise supplemental jurisdiction with respect to Plaintiff's potential state law claims.

IT IS FURTHER ORDERED that this action is hereby **DISMISSED WITH PREJUDICE**. A final judgment shall issue in accordance with Federal Rule of Civil Procedure 58.

IT IS FURTHER ORDERED that the Clerk of Court **TERMINATE AS MOOT** any remaining pending motions.

Baton Rouge, Louisiana, this 19th day of February, 2020.



**JUDGE BRIANA A. JACKSON
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**