

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

RAYFIELD JOSEPH THIBEAUX

CIVIL ACTION

VERSES

REBEKAH E. GEE

NO. 18-00004-BAJ-RLB

RULING AND ORDER

Before the Court is the United States Magistrate Judge's **Report and Recommendation (Doc. 10)** pursuant to 28 U.S.C. § 636(b)(1). The Report and Recommendation addresses whether Plaintiff's Complaint (Doc. 1) should be dismissed as frivolous or malicious, and whether it fails to state a claim on which relief may be granted. The Court recently dismissed an action brought by Plaintiff regarding virtually the same allegations pursuant to 28 U.S.C. § 1915(e). *See Thibeaux v. Gee*, No. 17-668, 2018 WL 343890 (M.D. La. Jan. 9, 2018), *adopting report and recommendation*, 2017 WL 6884338 (M.D. La. Nov. 3, 2017). The Magistrate Judge recommended that Plaintiff's case be dismissed because his claims were frivolous, and he failed to state a claim upon which relief may be granted. (Doc. 10 at p. 2). The gravamen of Plaintiff's Complaint is that, while incarcerated at Dixon Correctional Institute, he had an electronic monitoring device implanted into "the left cheek of [his] rectum" without his consent. (Doc. 1 at pp. 3–4).

The Magistrate Judge concluded that Plaintiff's claims should be dismissed as frivolous because his allegations are fanciful, fantastic and delusional, and have no

arguable basis in fact. (Doc. 10 at pp. 7–8). Furthermore, even if accepted as true, the scant and conclusory allegations in the Complaint do no state a claim upon which relief may be granted. (*Id.*); see also *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Moreover, Plaintiff's claims are prescribed by the one-year prescriptive period for delictual actions pursuant to Article 3492 of the Louisiana Civil Code. (Doc. 10 at p. 7).

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 purposed findings of fact, conclusions of law, and recommendations therein. (*Id.* at p. 1). Neither party objected.

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 its findings of fact, conclusions of law, and recommendation.

Accordingly,

**IT IS ORDERED** that the **Magistrate Judge's Report and Recommendation (Doc. 10)** is **ADOPTED** as the Court's opinion herein.

**IT IS FURTHER ORDERED** that Plaintiff's **Motion for the Appointment of Counsel (Doc. 3)**, **Motion to Have Summon and Complaint Served by U.S. Marshal (Doc. 4)**, **Motion to File Patent "Implant Telemetry System" as Evidence to a Coiled Biomedical Implants (Doc. 6)**, **Motion to File Plaintiff's Records of His Social Security Disability Findings and Conclusion (Doc. 7)**, and **Motion for Rule 45 Medical Examination (Doc. 9)** are **DENIED AS MOOT**.

Baton Rouge, Louisiana, this 2<sup>nd</sup> day of May, 2018.

A handwritten signature in blue ink, appearing to read "Brian A. Jackson", written over a horizontal line.

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