

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

ANDRE JOHNSON (#375946)

CIVIL ACTION

VERSUS

21-71-JWD-EWD

KENNY JACKSON, ET AL.

OPINION

After independently reviewing the entire record in this case and for the reasons set forth in the Magistrate Judge's Report dated October 31, 2022, (Doc. 11) to which an objection was filed and considered (Doc. 13);

IT IS ORDERED that all federal claims brought in this suit by Plaintiff Andre Johnson are **DISMISSED WITH PREJUDICE** for failure to state a claim and/or as legally frivolous pursuant to 28 U.S.C. § 1915(e) and 1915A.¹ Further, the Court declines the exercise of supplemental jurisdiction over potential state law claims.

Plaintiff's "Emergency Motion to Consider in the Above Claim and High Court Ruling" (Doc. 12) requests that this Court allow this case to proceed based upon the Fifth Circuit's reversal of another of Plaintiff's cases regarding a separate instance of retaliation. However, in that case, the Fifth Circuit did not state Plaintiff's claims were meritorious; rather, the Circuit found that Plaintiff should have been given leave to amend prior to dismissing his suit pursuant to 28 U.S.C. §§ 1915(e) and 1915A. In this case, the Court did provide Plaintiff with leave to amend

¹ Plaintiff is advised that 28 U.S.C. § 1915(g) provides that, "In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section [Proceedings in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." Should this Report and Recommendation be adopted, the Ruling in this matter will count as a strike.

(R. Doc. 7), Plaintiff filed an amended complaint (Doc. 10), and the amended complaint still fails to state a claim. Thus, the “Emergency Motion to Consider in the Above Claim and High Court Ruling” (Doc. 12) is **DENIED**.

Judgment shall be entered accordingly.

Signed in Baton Rouge, Louisiana, on November 17, 2022.



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