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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

JEROME WEATHINGTON  
BOP# 08121-028

DOCKET NO. 09-CV-705; SEC. P

VERSUS

JUDGE DEE D. DRELL

UNITED STATES FEDERAL BUREAU  
OF PRISONS, ET AL.

MAGISTRATE JUDGE JAMES D. KIRK

J U D G M E N T

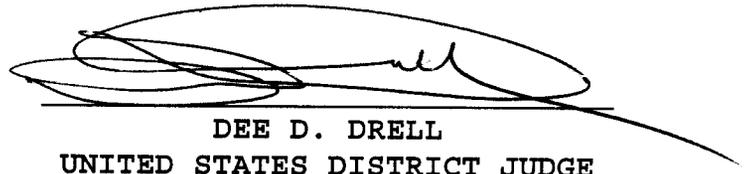
For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein and after a de novo review of the record, including the objections filed by the plaintiff, having determined that the findings and recommendation are partially correct under the applicable law;

**IT IS ORDERED** that Plaintiff's civil rights complaint be and is hereby **DENIED** and **DISMISSED WITH PREJUDICE** as frivolous and failing to state a claim for which relief can be granted pursuant to 28 U.S.C. §1915(e)(2)(b).

**IT IS FURTHER ORDERED** that proof now being shown that plaintiff's administrative claim has been denied by the Bureau of Prisons, the Report and Recommendation is not adopted as to the Federal Tort Claims Act claim. Subsequent action has now vested the Court with jurisdiction. See, e.g., Beran v. United States,

751 F. Supp. 886 (D.D.C. 1991); Campbell v United States, 534 F. Supp. 762 (D. Haw. 1982). Accordingly, the Federal Tort Claims Act claim is referred to the magistrate judge for further consideration.

THUS DONE AND SIGNED at Alexandria, Louisiana, on this 23<sup>rd</sup>  
day of DECEMBER, 2009.



DEE D. DRELL  
UNITED STATES DISTRICT JUDGE