

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAKE CHARLES DIVISION

JOHN PAUL BELL

v.

JERRY BRISTER

\* CIVIL ACTION NO. 2:13 -CV-02540

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\* JUDGE WALTER

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\* MAGISTRATE JUDGE KAY

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**JUDGMENT**

For the reasons stated in the Report and Recommendation (Rec. Doc. 52) of the Magistrate Judge previously filed herein, after an independent review of the record and Objection to the Report and Recommendation filed by the plaintiff (Rec. Doc. 54-1), and a *de novo* determination of the issues, the court determines that the findings are correct under applicable law.

Insofar as the plaintiff objects that the Magistrate Judge failed to consider Federal Rule of Civil Procedure 26(d) and 26(f), which require a conference of the parties before a party may seek discovery, (Rec. Doc. 54-1, p. 1), the court finds no error of law and no basis for “excusable neglect” on the part of the plaintiff. As stated in the first paragraph of each, Rule 26(d) and 26(f) do not apply to a *pro se* action brought by a person in the custody of a state.

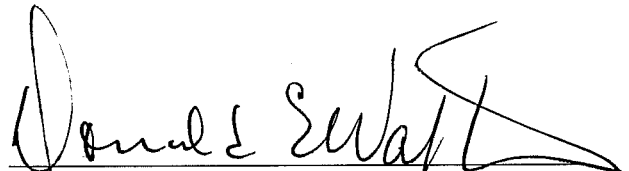
**IT IS ORDERED** that the Report and Recommendation is **ACCEPTED**. **IT IS THEREFORE ORDERED** that the Motion for Summary Judgment (Rec. Doc. 38) is **GRANTED** and that the case is **DISMISSED WITH PREJUDICE**.

**IT IS FUTHER ORDERED** that the plaintiff’s Motion for Leave to File Objection to Report and Recommendation (Rec. Doc. 54) is **GRANTED** insofar as the plaintiff’s Objection shall be filed; however, the court notes that no leave is required, as plaintiff’s Objection was timely filed per the prison mailbox rule. The court instructs the Clerk’s Office to file the

plaintiff's timely Objection, which has been considered herein and referenced as Record Document 54-1 for purposes of this Judgment.

**IT IS FURTHER ORDERED** that the plaintiff's Motion to Amend Report and Recommendations (Rec. Doc. 55) is **DENIED AS MOOT** as the court considers it a second Objection to the Report and Recommendation.

**THUS DONE AND SIGNED** in Shreveport, Louisiana, this 9 day of February, 2017.



DONALD E. WALTER  
UNITED STATES DISTRICT JUDGE