

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

JOSEPH AUGUSTINE

CIVIL CASE NO. 5:23-CV-01131

VERSUS

JUDGE DAVID C. JOSEPH

JAMES LEBLANC, ET AL

**MAGISTRATE JUDGE KAYLA D.
MCCLUSKY**

**ORDER ADOPTING REPORT AND RECOMMENDATION
IN PART AND JUDGMENT**

The REPORT AND RECOMMENDATION [Doc. 36] of the Magistrate Judge having been considered, together with the written Objections [Doc. 37, 38] thereto filed with this Court, and, after a *de novo* review of the record, finding that the Magistrate Judge's REPORT AND RECOMMENDATION is correct on all claims except for the recommendation that the Plaintiff's claims for prospective declaratory and injunctive relief against Secretary James Leblanc be dismissed without prejudice. As the Plaintiff contends in his Objection, Plaintiff needs continuing medical care because of his injuries and medical condition. Although the Plaintiff has been transferred to another DPSC facility, Secretary Leblanc has the power and authority to ensure the Plaintiff's current facility provides the care he alleges he needs. Consequently, Plaintiff's claims against Secretary Leblanc for prospective declaratory and injunctive relief are not moot and the Motion to Dismiss them should be denied. Considering the foregoing,

IT IS ORDERED that the MOTION TO DISMISS PURSUANT TO FRCP RULE 12(B)(1) AND 12(B)(6) [Doc. 24] filed by Defendants Michele Dauzat, Jerry Goodwin,

Vincent A. Coleman, Kayla Sherman, Synthia Nail, Kevin Hill, Kevin B. Kidd, Matthew Elmore, Jared Green, Linda Bunch, and Jaclyn Phillips is GRANTED IN PART AND DENIED IN PART.

IT IS FURTHER ORDERED that Plaintiff Joseph Augustine's claims against Defendants Michele Dauzat, Jerry Goodwin, Vincent A. Coleman, Kayla Sherman, Synthia Nail, Kevin Hill, Kevin B. Kidd, Matthew Elmore, Jared Green, Linda Bunch, Jaclyn Phillips, Unnamed Defendant 1, and Unnamed Defendants 2-10, *in their official capacities*, are DISMISSED WITHOUT PREJUDICE for lack of subject matter jurisdiction. FED. R. CIV. P. 12(b)(1).

IT IS FURTHER ORDERED that all of Plaintiff Joseph Augustine's claims against Defendants Michele Dauzat, Jerry Goodwin, Kayla Sherman, Vincent A. Coleman, Sylvia Nail, Kevin B. Kidd, Kevin Hill, Matthew Elmore, and Unnamed Defendants 2-10 *in their individual capacities*, are DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted. FED. R. CIV. P. 12(b)(6).

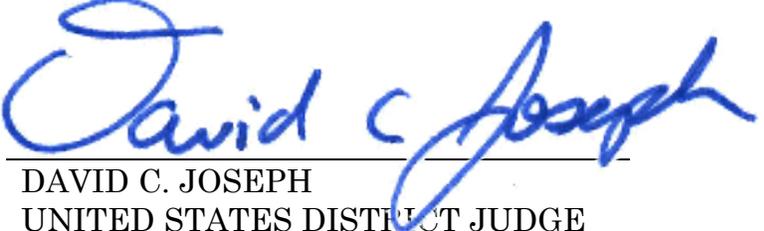
IT IS FURTHER ORDERED that Plaintiff Joseph Augustine's claims against Defendants Jared Green, Linda Bunch, Jaclyn Phillips, and Unnamed Defendant 1 for Violation of the Religious Land Use and Institutionalized Persons Act, Violation of Right of Access to Courts pursuant to 42 U.S.C. § 1983 and the First and Fourteenth Amendments, and Interference with Right to Counsel pursuant to 42 U.S.C. § 1983 and the First and Fourteenth Amendments, *in their individual capacities*, are DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted. FED. R. CIV. P. 12(b)(6).

IT IS FURTHER ORDERED that Plaintiff Joseph Augustine's claim against Defendants Linda Bunch and Jaclyn Phillips for interference with Augustine's Free Exercise of Religion pursuant to 42 U.S.C. § 1983 and the First and Fourteenth Amendments, *in their individual capacities*, is DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted. FED. R. CIV. P. 12(b)(6).

IT IS FURTHER ORDERED that Plaintiff Joseph Augustine's claim against Defendant Linda Bunch for Deliberate Indifference to Serious Medical Needs pursuant to 42 U.S.C. § 1983 and the Eighth and Fourteenth Amendments, in her individual capacity, is DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted. FED. R. CIV. P. 12(b)(6).

IT IS FURTHER ORDERED that the MOTION TO DISMISS PURSUANT TO FRCP RULE 12(B)(1) AND 12(B)(6) [Doc. 24] otherwise is DENIED.

THUS, DONE AND SIGNED in Chambers on this 5th day of March 2025.



DAVID C. JOSEPH
UNITED STATES DISTRICT JUDGE