825, 834 (1994). And, the prison officials responsible for the deprivation must have a "sufficiently culpable state of mind." *Id.* (quotation omitted). "In prison-conditions cases[,] that state of mind is one of deliberate indifference to inmate health or safety ...." *Id.* (internal citations and quotation omitted).

LaVergne contends that the LSP dorms were overcrowded, which forced the inmates to double bunk. He alleges that the filth from the overcrowding produced strong odors, and that there was limited security because the overcrowding spread the security guards thin. Finally, he claims that he was exposed to environmental tobacco smoke.

LaVergne's allegations fall short of what is required by Rule 12(b)(6). His contention that the conditions were "illegal" is conclusory, and he fails even to allege facts showing that his safety was at risk or that any defendant disregarded an excessive risk to his safety. *See Hope v. Harris*, No. 20-40379, 2021 WL 2523973, at *7-10 (5th Cir. 2021) (per curiam). Additionally, he does not claim that he was exposed to unreasonable levels of environmental tobacco Smoke. *See Helling v. McKinney*, 509 U.S. 25, 35 (1993) ("With respect to the objective factor, [the plaintiff] must show that he himself is being exposed to unreasonably high levels of [environmental tobacco smoke].").

Furthermore, even if his allegations were sufficiently pled, many of these conditions are not *per*

se violations of the Eighth Amendment. See *Rhodes v. Chapman,* 452 U.S. 337, 348 (1981) (double-celling); *Farr v. Rodriguez*, 255 F. App'x 925, 927 (5th Cir. 2007) (per curiam) (odors); *Collins v. Ainsworth*, 382 F.3d 529, 540 (5th Cir. 2004) (overcrowding). " In sum, the Eighth Amendment may afford protection against conditions of confinement which constitute health threats but not against those which cause mere discomfort or inconvenience." *Wilson v. Lynaugh*, 878 F.2d 846, 849 (5th Cir. 1989). Thus, we affirm the decision of the district court as to LaVergne's claim regarding the conditions of confinement in the LSP dorms.

3.

LaVergne also alleged that he was denied access to the courts in two forms: (1) by being kept from the law library and being provided inadequate inmate counsel, and (2) by virtue of the requirement that he pay state court fees. The district court properly dismissed each claim.

Unquestionably, those who are incarcerated have a right of access to the courts. *See Lewis v. Casey*, 518 U.S. 343, 350 (1996). But this right is not unlimited. "[The right] guarantees no particular methodology but rather the conferral of a capability—the capability of bringing contemplated challenges to sentences or conditions of confinement before the courts." *Id.* at 356. To succeed on a denial of access to the courts claim,

LaVergne must show that "his ability to pursue a nonfrivolous, arguable legal claim was hindered." *Brewster v. Dretke*, 587 F.3d 764, 769 (5th Cir. 2009) (quotation omitted).

Beyond his bald assertions that he could not access the law library and that inmate counsel was inadequate, LaVergne fails to support his claim with any facts. Furthermore, he does not identify a single legal cause of action that was affected by any such denial of access. Accordingly, we see no reason not to affirm the district court's dismissal of this denial of access claim.

As to LaVergne's denial of access claim concerning state court fees, it suffers from the same errors. Conspicuously absent from his pleadings is any explanation of a legal claim that was negatively affected by Doug Welborn's imposition of state court fees. Without more, his claim must fail. As a result, we affirm the decision of the district court on both of LaVergne's denial of access claims.

B.

In resolving the defendants' motions to dismiss, the district court did not address LaVergne's claim that his religious rights under RLUIPA had been violated. RLUIPA prohibits the government from substantially burdening a prisoner's religious exercise. *See* 42 U.S.C. § 2000cc-1(a) ("No government shall impose a substantial burden on the religious exercise of a person

residing in or confined to an institution ... unless the government demonstrates that imposition of the burden on that person - (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling government interest."). LaVergne contends that he was deeply offended by the destruction of Bibles while he was in the LSP dorms. He alleges that he witnessed other prisoners rip pages from Bibles and use them to roll cigarettes. This does not evince government action sufficient to state a claim under RLUIPA. Accordingly, any oversight by the district court on this issue with respect to LaVergne's term in the LSP dorms was harmless error.

Additionally, however, LaVergne alleges that he was denied access to church. He claims that this occurred "while [he] was held in CCR from Aug[ust] 2012 until June 2017." Although prisons may constitutionally restrict access to religious services if doing so is narrowly tailored, achieved by the least restrictive means, and justified by a compelling governmental interest, LaVergne's allegation may be sufficient to state a claim under RLUIPA at the motion to dismiss stage. *See, e.g., Baranowski v. Hart*, 486 F.3d 112, 120-22 (5th Cir. 2007) (analyzing inmate's RLUIPA claim for denial of access to religious services

at the summary judgment stage).

LaVergne brings this claim against defendants N. Burl Cain and James M. LeBlanc.[7] But, RLUIPA does not provide a private right of action for damages against state officials in their individual capacities. *See Sossamon v. Lone Star State of Tex.*, 560 F.3d 316, 330 (5th Cir. 2009), *aff'd sub. nom., Sossamon v. Texas*, 563 U.S. 277 (2011). Therefore, any such claim fails.

As to any claim against these defendants in their official capacities, LaVergne sued only LeBlanc in his official capacity. LeBlanc is (and was, at the relevant time) a state official: Secretary for the Louisiana Department of Public Safety and Corrections. *See Tex. Democratic Party v. Abbott*, 978 F.3d 168, 179 (5th Cir. 2020) ("State officials and agencies enjoy immunity when a suit is effectively against the state."), *cert. denied*, - U.S. - (2021). Furthermore, the Supreme Court has made clear that the states do not waive their sovereign immunity to suits for money damages under RLUIPA by accepting federal funds. *Sossamon*, 563 U.S. at 293. And, LaVergne's claim is not for prospective, injunctive relief: it focuses on a prohibition from church services that occurred between August 2012 and June 2017. As a result, LaVergne's claim fails,

[7] LaVergne did not clearly articulate this claim in the district court. And he does not make clear against whom he brings this claim. But, construing his pleadings liberally as we must, logically, he must intend to bring this claim against Cain and LeBlanc, as they are the only named defendants involved in enforcing various prison policies.

and the district court did not err in dismissing LaVergne's RLUIPA claim as to his initial term in solitary confinement.

C.

Following closely on the heels of LaVergne's challenge to the district court's grant of the defendants' motions to dismiss, LaVergne contends that the district court erred in dismissing his complaint prior to discovery. But, his claim ignores the very purpose of 28 U.S.C. § 1915A(a): to "review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity." LaVergne cites no authority demonstrating that he was entitled to discovery. Indeed, that would defeat the entire purpose of the motion to dismiss stage. As a result, we conclude that the district court did not err in dismissing LaVergne's complaint prior to discovery.

D.

Finally, LaVergne claims that the district court erred when it set aside the entry of default as to defendants Herman C. Clause and J. Clay LeJeune. Under Federal Rule of Civil Procedure 55(c), a district court may set aside entry of default for "good cause" "[T]he decision to set aside a default is committed to the sound

discretion of the trial court." *Moreno v. LG Elecs., USA Inc.*, 800 F3d 692, 698 (5th Cir. 2015) (citation omitted). We review for an abuse of discretion. *See Gen. Tel. Corp. v. Gen. Tel. Answering Serv.*, 277 F.2d 919, 921 (5th Cir. 1960) ("[T]he trial court's exercise of discretion will be interfered with by the appellate court only where there is an abuse.").

On June 25, 2019, LaVergne filed a "Motion for Summary Judgment by Default." Previously, on June 19, 2019, Clause and LeJeune had been entered into default as they had failed to respond to LaVergne's complaint. Later, they filed motions to set aside the entry of default, arguing that service had been insufficient. On July 16, 2019, the district court agreed, granting defendants Clause's and LeJeune's motions to set aside the clerk's entry of default and denying LaVergne's motion as moot.

On appeal, LaVergne does not contend that service had, in fact, been properly perfected on the defendants. Rather, he argues that he was entitled to a hearing before Clause's and LeJeune's entries of default were set aside. LaVergne cites no authority supporting his contention, and Rule 55 does not provide any. Thus, we conclude that the district court did not abuse its discretion in setting aside these entries of default.

III.

We AFFIRM the decision of the district court as to

all issues and as to all defendants, except—insofar as LaVergne's claim concerning his illegal plea and sentence regards the imposition of solitary confinement—we REVERSE and REMAND the claim, only as to defendants N. Burl Cain, and James LeBlanc, to the district court for consideration of the claim's merits and the previously-raised defenses.