

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 07-1482

Rickie Green,

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Appellant.

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v.

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Larry B. Norris, Director,
Arkansas Department of Correction,

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Appellee,

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Robert Jackson, Former
Assistant Warden, East Arkansas
Regional Unit, ADC,

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Defendant,

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Appeal from the United States
District Court for the Eastern
District of Arkansas.

[UNPUBLISHED]

Ray Hobbs, Chief Deputy Director,
Arkansas Department of Correction;
Greg Harmon, Warden, East Arkansas
Regional Unit, ADC; Dennis Jackson,
Captain, East Arkansas Regional Unit,
ADC; Ms. Stewart, Sgt., East Arkansas
Regional Unit, ADC; L. Jones,
Corporal, East Arkansas Regional
Unit, ADC; Mr. A. Norton, Corporal,
East Arkansas Regional Unit, ADC;
Mr. Eastern, Corporal, East Arkansas
Regional Unit, ADC; Mr. Cleaster
Hubbard, Corporal, East Arkansas
Regional Unit, ADC; Mr. Morrison,
Corporal, East Arkansas

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Regional Unit, ADC,

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Appellees.

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Submitted: November 4, 2008

Filed: November 7, 2008

Before WOLLMAN, SMITH, and GRUENDER, Circuit Judges.

PER CURIAM.

Rickie Green appeals the district court's¹ dismissal, following a pretrial evidentiary hearing, of his 42 U.S.C. § 1983 action claiming defendants used excessive force against him in violation of the Eighth Amendment. After careful review, we find that the district court did not err in dismissing the action. See Randle v. Parker, 48 F.3d 301, 303 (8th Cir. 1995) (standard of review; court must resolve direct factual conflicts in favor of plaintiff, assume as true all facts supporting plaintiff which evidence tends to prove, and give plaintiff benefit of all reasonable inferences; inquiry is whether evidence so viewed would allow reasonable jurors to differ as to conclusions that could be drawn); Johnson v. Bi-State Justice Ctr., 12 F.3d 133, 135-36 (8th Cir. 1993) (hearing to determine whether pro se inmate's § 1983 damages claims warrant jury trial is permitted, but hearing must be consistent with right to jury trial; standard is whether case would survive motion for judgment as matter of law).

¹The Honorable Susan Webber Wright, United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable H. David Young, United States Magistrate Judge for the Eastern District of Arkansas.

Accordingly, the judgment is affirmed, see 8th Cir. R. 47B, and Green's motion for appellate counsel is denied.
