

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

**CATHERYNNNE W. KENDRICK,
ADC #708204**

PLAINTIFF

V.

CASE NO. 1:07CV00025 JMM/BD

NURZUHAL FAUST, *et al.*

DEFENDANTS

ORDER

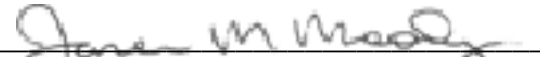
Plaintiff has filed two motions to dismiss (docket entries #388 and #389). In her first motion to dismiss (#388), Plaintiff requests that Defendants Zomant and Dixon be dismissed from this lawsuit. In addition, she requests the following claims be dismissed: (1) failure to protect; (2) conditions of confinement; (3) unwarranted placement in administrative segregation; (4) failure to follow ADC policy; (5) gender discrimination; (6) violation of her first amendment right to freedom of speech, and (7) violation of her due process rights during her disciplinary hearings. In her second motion to dismiss, she requests that Defendants Capel and Dewitt be dismissed as party Defendants (#389). Plaintiff's motions (#388 and #389) should be GRANTED in part, and DENIED in part.

First, Plaintiff's claims regarding (1) her unwarranted placement in administrative segregation; (2) gender discrimination; (3) violation of her first amendment right to freedom of speech; and (4) violation of her due process rights during her disciplinary hearings were previously dismissed by the Court with prejudice (#378). Accordingly, Plaintiff's request that these claims be dismissed is denied as moot.

In addition, Kenneth Dewitt is not a party Defendant in this case. Although Plaintiff previously moved to have Mr. Dewitt named as Defendant, the Court denied Plaintiff's request (#360). Accordingly, Plaintiff's request to have Mr. Dewitt dismissed from this lawsuit is denied as moot.

With regard to Plaintiff's failure to protect and condition of confinement claims, as well as her claims against Defendant Zomant, Dixon, and Capel, the Court intends to dismiss these claims with prejudice. If these claims are dismissed with prejudice, Plaintiff will be precluded from further litigating these claims. Accordingly, Plaintiff is hereby notified of her opportunity to withdraw her motion if she so chooses within fourteen days of the date of this Order. If no action is taken by Plaintiff within this time period, the Court will dismiss Plaintiff's claims with prejudice.

IT IS SO ORDERED this 6th day of January, 2010.


UNITED STATES DISTRICT JUDGE