

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

POLLY STRATTON
ADC #750283

PLAINTIFF

V.

NO: 1:07CV00053 JMM/HDY

JOHN MAPLES, JR. *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge James M. Moody. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.

3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Plaintiff filed this complaint on November 14, 2007, alleging that she has been physically abused and denied medical care at the Arkansas Department of Correction’s McPherson Unit. Plaintiff’s motion to voluntarily dismiss her complaint was granted on July 8, 2008 (docket entry #231). In her motion to voluntarily dismiss her complaint, Plaintiff asserted that she could not be expected to litigate the case as effectively as “professional lawyers” (docket entry #221). At that time, a pre-jury hearing had been held, and a summary judgment motion¹ filed by many Defendants was pending (docket entry #213).

On November 26, 2008, Plaintiff filed a motion to reopen her case, due to the allegedly excessive use of force, medical care denial, and other actions which Plaintiff contends occurred on October 13, 2008, and November 13, 2008 (docket entry #240). The events at issue in the pending motion are alleged to have occurred well after this case was closed and there are no allegations made

¹The motion asserted, among other things, that Plaintiff had failed to exhaust her administrative remedies.

that link these new events with the defendants in the lawsuit which was closed. Furthermore, it is apparent from the dates of these new events that new exhaustion issues would have to be addressed. While the allegations may support a new lawsuit, they do not provide an adequate basis for reopening this case.

IT IS THEREFORE RECOMMENDED THAT Plaintiff's motion to reopen her case (docket entry #240) be DENIED.

DATED this 5 day of December, 2008.



UNITED STATES MAGISTRATE JUDGE