

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

CATHERYNNNE KENDRICK *et al.*
ADC #708204

PLAINTIFFS

V.

NO: 1:08CV00022 WRW/HDY

JANET TINER. *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge William R. Wilson, Jr. 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

Plaintiffs Catherynne Kendrick, Susan M. Brandon, Bridgette A. Turner, Crystal L. Rouser, Michelle Burnum, and Tracy M. Bailey, filed this complaint on April 14, 2008. On June 19, 2008, all Plaintiffs except Kendrick were dismissed from the case (docket entry #28). On July 21, 2008, the Court granted Kendrick’s motion to voluntarily dismiss her complaint (docket entries #46 & #47). Kendrick has now filed a motion to reopen the case (docket entry #52).¹

The motion appears to seek to “change the venue” of the case to include 11 Plaintiffs, and a number of new Defendants who have never been parties to this case. The original complaint in the above-styled case involved allegations that certain members of the infirmary staff were providing inmates with the incorrect medication. While Kendrick’s motion is not entirely clear, it appears that she wishes to essentially begin a new lawsuit, with new Plaintiffs and new Defendants, claiming that inmates are being used as experimental subjects for medical testing. It also seems that Kendrick is

¹The motion bears the signature of Kendrick, as well as Frances R. Perry Miller, who has never been a party to this action.

attempting to consolidate another pending case, ED/AR 1:08CV44 with this case. Kendrick's motion should be denied. Kendrick is not actually seeking to reopen her existing lawsuit, but rather attempting to begin a new lawsuit, with numerous different parties, and distinct claims. If Plaintiff wishes to pursue those claims, she should file a separate lawsuit.

IT IS THEREFORE RECOMMENDED THAT Plaintiff's motion to reopen (docket entry #52) be DENIED.

DATED this 10 day of October, 2008.



UNITED STATES MAGISTRATE JUDGE