

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

KENNETH L. WALLER, JR.
ADC #103829

PLAINTIFF

v.

No. 1:11CV00095 JLH/JTR

WENDY KELLEY, Deputy Director,
Arkansas Department of Correction, et al.

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Partial Disposition submitted by United States Magistrate Judge J. Thomas Ray and the filed objections. After carefully considering these documents and making a *de novo* review of the record in this case, the Court concludes that the Proposed Findings and Recommended Partial Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.

IT IS THEREFORE ORDERED that:

1. Plaintiff's FTCA claims against all of the Defendants are DISMISSED, WITH PREJUDICE, for failing to state a claim upon which relief may be granted.
2. Plaintiff's pendent state law negligence and outrage claims against Defendant Kelley are DISMISSED, WITH PREJUDICE, because she is entitled to statutory immunity under Ark. Code. Ann. § 19-10-305.
3. Plaintiff's pendent state law outrage claims against Defendants CMS, Cowell, Bragswell, Horn, Nance, Hutchinson, Armstrong, Waldrupe, Gilbert, and Bridgeman are DISMISSED, WITHOUT PREJUDICE, for failing to state a claim upon which relief may be granted.

4. Plaintiff may PROCEED with his pendent state law negligence claims against Defendants CMS, Cowell, Bragswell, Horn, Nance, Hutchinson, Armstrong, Waldrupe, Gilbert, and Bridgeman.

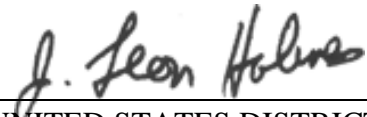
5. Plaintiff may PROCEED with his Eighth Amendment inadequate medical care claims against all Defendants.

6. The Clerk is directed to prepare a summons for Defendants Cowell, Bragswell, Horn, Nance, Hutchinson, Bridgeman, Armstrong, Waldrupe, Gilbert, and Corizon, Inc. The United States Marshal is directed to serve the summons, Complaint, Amended Complaint, and this Order on them through the Humphries and Lewis law firm without prepayment of fees and costs or security therefor.¹

7. The Clerk is directed to prepare a summons for Defendant Wendy Kelley. The United States Marshal is directed to serve the summons, Complaint, Amended Complaint, and this Order on her through the ADC Compliance Division without prepayment of fees and costs or security therefor.

8. The Court CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

Dated this 7th day of February, 2012.


UNITED STATES DISTRICT JUDGE

¹ If any of the Defendants are no longer Corizon employees, the Humphries and Lewis law firm shall file, with the return of unexecuted service, a **SEALED** Statement providing the last known private mailing address for the unserved Defendant.