Morris v. Nettles et al Doc. 10

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

MARK MORRIS
ADC #156949 PLAINTIFF

v. No. 1:15-cv-17- DPM-JTR

NETTLES, Principal, Grimes Unit;
DOWELL, Assistant Principal, Grimes
Unit; and GRIMES CORRECTIONAL
UNIT, Arkansas Department of Correction DEFENDANTS

ORDER

1. On *de novo* review, the Court adopts the partial recommendation, *№ 8*, as modified and overrules Morris's objection, *№ 9*. The case will proceed with Morris's cruel and unusual punishment claim against Nettles and Dowell. The Clerk is directed to prepare a summons for Nettles and Dowell, and the U.S. Marshal is directed to serve the summons, complaint, and this Order on them through the ADC Compliance Office without prepayment of fees and costs or security.

2. Morris's claims against the Grimes Correctional Unit are liberally construed as claims against the Arkansas Department of Correction. The Eleventh Amendment bars § 1983 suits against state agencies. *Monroe v. Arkansas State University*, 495 F.3d 591, 594 (8th Cir. 2007). The Grimes

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Correctional Unit is therefore dismissed with prejudice. To the extent Morris asserts a First Amendment and Equal Protection claim, those claims are dismissed without prejudice.

3. An *in forma pauperis* appeal from the Order would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.

D.P. Marshall Jr.
United States District Judge

11 June 2015