

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

JOHNNY L. BUTLER
REG. #12790-076

PLAINTIFF

V.

2:08CV00033 SWW/JTR

LIEUTENANT WARDS, et al.

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Partial Disposition submitted by United States Magistrate Judge J. Thomas Ray. No objections have been filed.¹ After careful review, 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. Defendants' Motion to Dismiss, which has been construed as a Motion for Summary Judgment (docket entry #19), is GRANTED IN PART and DENIED IN PART such that: (a) Plaintiff's due process and retaliation claims (Claims 1 and 2) are DISMISSED, WITHOUT PREJUDICE; (b) separate Defendants DHO Wards, Jemmott, and Moores, are DISMISSED, WITHOUT PREJUDICE; and (c) Plaintiff shall PROCEED, at this time, with his inadequate medical care and equal protection claims (Claims 3 and 4) against remaining Defendants Lt. Wards, Gonzalez, Levin, and Gaila.

¹Plaintiff requested and was granted up to and including October 13, 2008 in which to file objections.

2. 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.

3. Pursuant to Fed. R. Civ. P. 12(a)(4), Defendants Lt. Wards, Gonzalez, Levin, and Gaila shall file an Answer within ten days of the entry of this Order.

Dated this 16th day of October, 2008.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE