

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN 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 Disposition submitted by United States Magistrate Judge J. Thomas Ray and Plaintiff's objections and has conducted a de novo review of pertinent portions of the record. After careful review, the Court concludes that the Proposed Findings and Recommended 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' Second Motion for Summary Judgment, or in the Alternative, Request for an Evidentiary Hearing on the Issue of Exhaustion (docket entry #44) is GRANTED, and Plaintiff's remaining claims are DISMISSED, WITHOUT PREJUDICE, due to his failure to timely and properly exhaust his administrative remedies.

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

Dated this 23rd day of April, 2009.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE