

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

WESLEY HESTER
ADC #129029

PLAINTIFF

V.

NO: 2:08CV00123 JMM/HDY

LARRY NORRIS *et al.*

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge H. David Young, and the objections filed. After carefully considering the objections and making a *de novo* review of the record in this case, 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.¹

IT IS THEREFORE ORDERED THAT:

1. Defendants' motions for summary judgment (docket entries #17 & #38) are GRANTED.
2. Plaintiff's claims regarding his disciplinary conviction, and appeals thereof, are DISMISSED WITH PREJUDICE for failing to state a claim upon which relief may be granted.
3. Plaintiff's claims against Defendants Ray Hobbs, James Gibson, Larry Norris, Melvin

¹The Court also finds that defendant's allegation that the guards censored his mail and prevented him from filing request forms for ten days while he was in isolation after his punitive time had been served does not excuse his obligation to exhaust his claim regarding the lack of intervention by Hurst and Kirksey. There are no allegations that either before or following this ten-day period, defendant was prevented from filing grievances which means that the grievance procedure was available. In fact, defendant states in his complaint that he was able within one day to appeal his being found guilty of two of the five charges contained in the disciplinary.

Hurd, Steve Outlaw, Greg Harmon, Aundrea Weekley, and Wendy Kelley, for the assault, and alleged failure to intervene, are DISMISSED WITHOUT PREJUDICE, and the names of Defendants Ray Hobbs, James Gibson, Larry Norris, Melvin Hurd, Steve Outlaw, Greg Harmon, Aundrea Weekley, Does, and Wendy Kelley are removed as party Defendants.

4. Plaintiff's claims against Defendant Charlotte Green are DISMISSED WITH PREJUDICE for failure to state a claim upon which relief may be granted, and her name be removed as a party Defendant.

5. In light of this order, Plaintiff's motion to amend to add Essie Clay, the disciplinary hearing officer, as a Defendant (docket entry #19), is DENIED.

6. In light of this order, the motions to stay discovery, and to supplement, filed by Defendants Ray Hobbs, James Gibson, Larry Norris, Melvin Hurd, Steve Outlaw, Greg Harmon, Aundrea Weekley, and Wendy Kelley (docket entries #34 & #43), are DENIED AS MOOT.

DATED this 12 day of December, 2008.


UNITED STATES DISTRICT JUDGE