

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

BRENT M. BARBER, Reg. # 17455-045	*	
	*	
	*	
Plaintiff,	*	
vs.	*	No. 2:09-cv-00009-SWW-JJV
	*	
U.S.A.; <i>et al.</i> ,	*	
	*	
Defendants.	*	

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe and the parties’ objections. 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. Plaintiff’s Federal Tort Claims Act and deliberate indifference to his serious medical needs claims are DISMISSED without prejudice for failure to exhaust administrative remedies;
2. Plaintiff’s claim of failure to protect is DISMISSED with prejudice as there is no genuine issue of material fact on this point;
3. Plaintiff’s denial of due process claims in the conduct of his disciplinary hearing are DISMISSED without prejudice;
4. Plaintiff’s claim of denial of due process for placement in the Special Housing Unit

¹ Defendants ask that this Court remand this matter to the Magistrate Judge to specify which claims have been exhausted and to set out the rationale for why said claims are deemed exhausted. The Court denies defendants’ request, finding that the Magistrate Judge’s Proposed Findings and Recommended Disposition is both thorough and clear.

for approximately six months pending a disciplinary hearing is DISMISSED with prejudice;

5. Plaintiff's claim of retaliatory discipline is DISMISSED without prejudice; and

6. 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 10th day of May, 2010.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE