

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

REGGIE PATTERSON
ADC#114360

PLAINTIFF

v.

Case No. 2:09-cv-19-DPM

CORRECTIONAL MEDICAL SERVICES,
MOORE, HUGHES, GREG HARMON, and
LARRY NORRIS

DEFENDANTS

ORDER

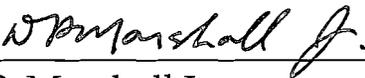
The Court has considered Magistrate Judge Joe. J. Volpe's Proposed Findings and Recommended Disposition – to which Reggie Patterson did not object – and reviewed a recording of the evidentiary hearing Judge Volpe conducted on 4 March 2010. After conducting a plain-error review, *United States v. Rodriguez*, 484 F.3d 1006, 1010–11 (8th Cir. 2007), the Court adopts Magistrate Judge Volpe's Proposed Findings and Recommended Disposition with a clarification.

Patterson's claim that the Defendants were deliberately indifferent to his medical needs was exhausted after he filed his complaint, not before. Exhaustion occurred before the evidentiary hearing. Magistrate Judge Volpe

considered the merits of the deliberate-indifference claim—rather than dismissing it without prejudice to refiling—to conserve judicial resources. This was a proper choice, especially given the overlap between Patterson’s two claims. The Court agrees with Judge Volpe’s recommendation that Patterson’s deliberate-indifference claim should be dismissed with prejudice.

The Court also adopts Magistrate Judge Volpe’s recommendation that the second (and properly exhausted) claim, which is that Patterson’s medical condition excuses him from the mandatory school requirement imposed on certain inmates, should be dismissed with prejudice. Patterson’s complaint fails as a matter of law.

So Ordered.



D.P. Marshall Jr.
United States District Judge

5 August 2000