

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

CHARLES A. WINSTON
ADC #84733

PLAINTIFF

V.

NO: 2:12CV00084 JMM

MARCUS I. ETHERLY *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.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's complaint is DISMISSED for failure to introduce sufficient evidence to create a fact issue to be submitted to a jury.
2. Plaintiff's complaint is DISMISSED WITH PREJUDICE with respect to his claims against Defendant Marcus I. Etherly, and WITHOUT PREJUDICE in all other respects.
3. The Court certifies that an *in forma pauperis* appeal taken from the order and judgment dismissing this action is considered frivolous and not in good faith.
4. All pending motions are DENIED.

DATED this 1st day of May, 2013.


UNITED STATES DISTRICT JUDGE