

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

**ALONZO GILLIAM, III,
ADC# 098194**

PLAINTIFF

v.

Case No. 2:13-cv-00103-KGB-JJV

**WENDY L. KELLY,
Deputy Director, ADC; et al.**

DEFENDANTS

ORDER

Before the Court are the proposed findings and recommendations submitted by United States Magistrate Judge Joe J. Volpe (Dkt. No. 97), plaintiff Alonzo Gilliam III's objections thereto (Dkt. No. 106), Mr. Gilliam's motion to dismiss parties (Dkt. No. 128), Mr. Gilliam's supplemental filing to his amended complaint (Dkt. No. 129), and Mr. Gilliam's motion for reconsideration of his objections to the proposed findings and recommendations (Dkt. No. 137).

In the proposed findings and recommendations, Judge Volpe recommends to this Court that Mr. Gilliam's claim for monetary damages from the defendants in their official capacities is barred and therefore should be dismissed. He recommends that Mr. Gilliam's retaliation claim, First Amendment mail claim, and claims of verbal harassment and threats fail to state a claim upon which relief may be granted and should be dismissed. Judge Volpe also recommends that, for failure to state a claim upon which relief may be granted, Mr. Gilliam's claims against several defendants be dismissed without prejudice while he recommends that claims against other defendants be permitted to proceed. The Court determines after careful review that Mr. Gilliam's objections to the proposed findings and recommendations amount to conclusory statements that do not assist Mr. Gilliam in stating a claim upon which relief may be granted.

Mr. Gilliam's subsequent filings related to these issues, however, indicate a desire to dismiss most of the defendants for whom dismissal was recommended in the proposed findings and recommendations, as well as some additional defendants, and to supplement the record before the Court, which the Court determines he did in his supplemental filing to his amended complaint. In Mr. Gilliam's motion for reconsideration of his objections to the proposed findings and recommendations (Dkt. No. 137), he states that his motion to dismiss requests that all defendants be dismissed in accordance with the proposed findings and recommendations with the exception of defendants Dr. Obi, Dr. Geraldine Campbell, Nurse S. Sherman, COII E. Rogers, Sergeant J.D. Mills, and COII Spankman. The Court notes that Mr. Gilliam requested to dismiss his claims against COII Spankman in his motion to dismiss, but the Court will consider COII Spankman along with the other defendants Mr. Gilliam now requests not be dismissed.

As an initial matter, the Court grants Mr. Gilliam's motion for reconsideration of his objections to the proposed findings and recommendations insofar as the Court will consider Mr. Gilliam's subsequent filings, including the supplemental filing to his amended complaint, as these filings relate to the proposed findings and recommendations currently before the Court (Dkt. No. 137). For reasons that follow, Mr. Gilliam's motion for reconsideration is denied in all other respects.

Mr. Gilliam's motion to dismiss parties is granted insofar as it is in accordance with the proposed findings and recommendations and insofar as it requests dismissal of additional parties not discussed in the proposed findings and recommendations (Dkt. No. 128). To the extent Mr. Gilliam requests that the Court not dismiss parties who Judge Volpe recommended be dismissed as defendants from this action, for reasons that follow, that request is denied.

When the Court views Mr. Gilliam's pleadings related to these issues as a whole, it appears that his only objections to the proposed findings and recommendations relate to defendants Dr. Obi, Dr. Campbell, Nurse Sherman, COII Rogers, Sergeant Mills, and COII Spankman. He requests that his claims against these defendants not be dismissed. However, even after review of Mr. Gilliam's objections, motion to dismiss parties, supplemental filing, and motion for reconsideration, the Court finds no new facts or information that would alter the analysis and recommendation in Judge Volpe's proposed findings and recommendations. Therefore, the proposed findings and recommendations in this case are adopted in their entirety as this Court's findings in all respects, and the Court dismisses as defendants Dr. Obi, Dr. Campbell, Nurse Sherman, COII Rogers, Sergeant Mills, and COII Spankman (Dkt. No. 97).

It is therefore ordered that:

1. The proposed findings and recommendations in this case are adopted in their entirety as this Court's findings in all respects (Dkt. No. 97). Consistent with this Order, the Court grants in part and denies in part Mr. Gilliam's motion to dismiss parties (Dkt. No. 128). Consistent with this Order, the Court also grants in part and denies in part Mr. Gilliam's motion for reconsideration (Dkt. No. 137).

2. The Court determines that Mr. Gilliam's claims for monetary damages from the defendants in their official capacities are barred and dismissed.

3. The Court determines that Mr. Gilliam's retaliation claim, First Amendment mail claim, and claims of verbal harassment and threats fail to state a claim upon which relief may be granted and, therefore, are dismissed.

4. The Court dismisses without prejudice for failure to state a claim upon which relief may be granted Mr. Gilliam's claims against defendants Wendy Kelly, Warden Burl,

Warden T. Ball, Warden D. Payen, Larry D. May, Angela Gamble, Candace Wallace, Barbara Williams, Captain W. McNary, Lieutenant C. Burnett, Lieutenant Dean, Sergeant W. Ivory, Sergeant H.L. Williams, Sergeant Danul, CO J.D. Orr, CO Hamilton, COII Spankman, COII E. Rogers, CO Merrill, Dr. Obi, Dr. Geraldine Campbell, Nurse S. Sherman, Nurse A. Bell, Nurse Burnell, T. Compton, COII Wilson, Captain Harris, Lieutenant Mitchel, Sergeant J.D. Mills, Sergeant Dickerson, Property/Mail Supervisor Roberts, and CO J.T. Freyer. These defendants are dismissed without prejudice from this action.

5. Based on Mr. Gilliam's motion to dismiss parties, the Court dismisses without prejudice Mr. Gilliam's claims against Sergeant Allen, CO Davis, CO D. Harris, Sergeant P. Hill, Sergeant J. Hughes, and CO McCoy. These defendants are dismissed without prejudice from this action.

6. The remaining claims against defendants Lieutenant M. Allen, Sergeant W. Brown, CO Cobbs, Sergeant Cole, COII L. Willis, Sergeant Lockhart, CO Kevin T. Minor, CO Moore, Bill Parson, CO Roshorough, CO Smith, and CO Wiederspoon may proceed.

SO ORDERED this 18th day of July, 2014.



Kristine G. Baker
United States District Judge