

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

BRYAN EDWARD SLAYTON
Reg #11196-074

PLAINTIFF

v.

No. 2:16-cv-69-DPM

RIVERA, Warden, FCI-Forrest City;
RELVAS, Captain, FCI-Forrest City;
REED, Segregation Lieutenant, FCI-
Forrest City; WARD, Disciplinary
Hearing Officer, FCI-Forrest City;
LLOYD, SIS Technician, FCI-Forrest
City; and D. EDGE, Warden, FCI-
Texarkana, TX

DEFENDANTS

ORDER

1. The stay, *No 7*, is lifted. On *de novo* review, the Court adopts the recommendation as modified, *No 12*, and overrules Slayton's objections, *No 13*.
FED. R. CIV. P. 72(b)(3).

The modification: Edge wasn't sued in *Slayton I*, and Rivera, Relvas, Ward, and Reed were dismissed without prejudice in that case. The claim preclusion aspect of *res judicata* thus has no effect on Slayton's claims against all those individuals. *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 396 (1990); *Pholmann v. Bil-Jax, Inc.*, 176 F.3d 1110, 1112 (8th Cir. 1999). Slayton's claims against them will therefore be dismissed without prejudice. His claims

against Lloyd, though, will be dismissed with prejudice based on *res judicata* because those claims were decided on the merits against Slayton in his first case.

2. This dismissal counts as a “strike” within the meaning of 28 U.S.C. § 1915(g). *Cf. Higgins v. Carpenter*, 258 F.3d 797, 801 (8th Cir. 2001) (*per curiam*). An *in forma pauperis* appeal from this Order and accompanying Judgment would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

30 May 2017