

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

NATHANIEL L. FITZGERALD  
ADC #84210

PLAINTIFF

v.

Case No. 3:09-cv-154-DPM-JJV

TERESA BONNER; DAVID BOYKEN;  
JOHN DEXTER; SUPERVISOR BEASLEY;  
DR. SCHRADER (incorrectly identified as  
"Dr. Scroder"); JANE DOE; and  
NURSE MANDY CHILDRESS

DEFENDANTS

ORDER

The Court has considered Magistrate Judge Joe J. Volpe's Proposed Findings and Recommended Partial Disposition—to which Nathaniel Fitzgerald objected. Having reviewed the record *de novo*, FED R. CIV. P. 72(b)(3), the Court adopts Magistrate Judge Volpe's decision as its own. *Document No. 127.*

The Defendants' motion for summary judgment, *Document No. 118*, is granted in part and denied in part. Fitzgerald may proceed on his conditions-of-confinement claim (while in the booking cell) and his excessive-force claim.

All of Fitzgerald's official-capacity claims seeking money damages against any immune Defendant are dismissed with prejudice. The Court also

dismisses with prejudice any claim based on Fitzgerald's allegations that the County had an unconstitutional policy or custom, *respondeat superior* liability, that Defendants failed to answer grievances, denied him visitation, denied him access to mail, failed to provide an adequate diet, retaliated against him, or were deliberately indifferent to serious medical needs in violation of the Eighth Amendment.

Fitzgerald's claim that Defendants unlawfully deprived him of personal property is dismissed without prejudice so he may pursue any appropriate state-law remedy. Likewise, Fitzgerald's claim that Defendants failed to protect him is dismissed without prejudice because he failed to state a claim. Finally, Jane Doe (identified as Nurse Lindsey) is dismissed without prejudice.

So Ordered.

  
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D.P. Marshall Jr.  
United States District Judge

  
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23 February 2011