

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

NICKLELAS NECESSITY BREWER
ADC #116152

PLAINTIFF

V.

NO: 3:10CV00245 SWW/HDY

JACK McCANN *et al.*

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Partial 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 Partial 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 is allowed to proceed to jury trial on his claims of excessive force against Defendant Rick Webb, and denial of adequate medical care against Defendants John Smith, Jeremy Sparks, and Debra McMullin.

2. Plaintiff's claims against Defendant Jack McCann are DISMISSED WITH PREJUDICE for failure to introduce sufficient evidence to create a fact issue to be submitted to a jury, and McCann's name is removed as a party Defendant.

DATED this 28th day of June, 2011.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE