

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

**HERMAN H. LEFORS, JR.,
ODOC #112524**

PLAINTIFF

v.

Case No. 3:14-cv-00138-KGB-JJV

DAN LANGSTON, et al.

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe (Dkt. No. 90), as well as plaintiff's objections (Dkt. No. 101). After carefully considering the objections and making a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommendations should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects. The Court notes that plaintiff's claims, apparently made for the first time in his objections, that defendants may delete, modify, or improperly store his medical information does not constitute a threat of irreparable harm. Plaintiff's claims are speculative, and he provides no facts or evidence to support that defendants can, have, or will delete, modify, or improperly store his medical information.

Also before the Court is plaintiff's motion to take interlocutory appeal of the denial of his motion to stay and appoint counsel (Dkt. No. 120). The Eighth Circuit Court of Appeals has previously exercised jurisdiction over non-final orders denying appointment of counsel in 42 U.S.C. § 1983 cases. See *Ward v. Smith*, 721 F.3d 940 (8th Cir. 2013); *Nelson v. Shuffman*, 476 F.3d 635 (8th Cir. 2007). Here, because plaintiff has not filed a notice of appeal or taken the other necessary steps to take an interlocutory appeal, the Court construes plaintiff's motion as a motion to appeal to the district judge or, in other words, as a motion for reconsideration of the

magistrate judge's denials of counsel (Dkt. No. 120). Under 28 U.S.C. § 636(b)(1)(A), a district court may reconsider a magistrate judge's order on non-dispositive pretrial matters where it has been shown clearly erroneous or contrary to law. *Ferguson v. United States*, 484 F.3d 1068, 1076 (8th Cir. 2007). Nothing in the magistrate judge's orders denying plaintiff's motion for stay and appointment of counsel is clearly erroneous or contrary to law. Accordingly, to the extent plaintiff requests reconsideration, it is denied.

SO ORDERED this the 29th day of January, 2015.



KRISTINE G. BAKER
UNITED STATES DISTRICT JUDGE