

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

**LARRY LENN MOORE, JR.**

**PLAINTIFF**

**v.**

**Case No. 3:15-cv-370-KGB/JTR**

**FLECIA ANN KING, Kitchen Supervisor,  
Craighead County Detention Center, et al.**

**DEFENDANTS**

**ORDER**

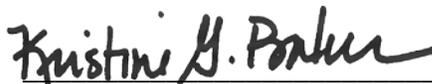
The Court has reviewed the Recommended Partial Disposition submitted by United States Magistrate Judge J. Thomas Ray and the objections filed by plaintiff Larry Lenn Moore, Jr. (Dkt. Nos. 8, 9). After carefully considering these documents and making a *de novo* review of the record in this case, the Recommended Partial Disposition is approved and adopted in its entirety as this Court's findings in all respects. Mr. Moore may proceed with his cruel and unusual punishment claim against defendant Flecia Ann King. Mr. Moore's claims against defendants Matt Hall and Sheriff Marty Boyd are dismissed without prejudice.

The Court writes separately to address Mr. Moore's objections to the Recommended Partial Disposition. Mr. Moore contends that, if Mr. Hall and Sheriff Boyd knew that he had a sexual relationship with Ms. King and did not bring any criminal charges against her, they have violated his constitutional rights. Mr. Moore admits that he does not know whether Ms. King has been charged. Mr. Moore's argument that Mr. Hall and Sheriff Boyd should have charged Ms. King with a crime is misplaced. Neither Mr. Hall nor Sheriff Boyd has the power to file charges against Ms. King. That power is reserved to the prosecuting attorney or the grand jury. Each prosecutor in each district has the sole authority, with grand jury's concurrent authority, to bring charges within that district. *State v. Brooks*, 202 S.W.3d 508, 512 (Ark. 2005). The

Arkansas Constitution provides that the duty of charging an accused with a felony is reserved to the prosecuting attorney or the grand jury. *Id.* Therefore, even assuming that no charges have been filed, this Court declines to find that Mr. Hall or Sheriff Boyd violated Mr. Moore's constitutional rights by failing to file charges against Ms. King.

Accordingly, Mr. Moore's claims against Mr. Hall and Sheriff Boyd are dismissed without prejudice for failing to state a claim upon which relief may be granted. Mr. Moore may proceed with his cruel and unusual punishment claim against Ms. King. The Clerk is directed to prepare a summons for Ms. King at the Craighead County Detention Center. The U.S. Marshal is directed to serve the complaint, amended complaint, and this Order on her without prepayment of fees and costs of security therefor. If Ms. King is no longer a Craighead County employee, as alleged by Mr. Moore, then the individual responding to service must file a **sealed** statement providing Ms. King's last known private mailing address. It is certified, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

Dated this 5th day of May, 2016.



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Kristine G. Baker  
United States District Judge