

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

MARC HARRIS

PLAINTIFF

v.

NO. 4:04CV02299 SWW

DAVID GREEN, TAGOS ROBINSON,
and RICK HARMON

DEFENDANTS

ORDER

The Court has received findings and a recommendation from Magistrate Judge H. David Young. After a careful review of the findings and recommendation, the timely objections received thereto, and a de novo review of the record in this proceeding, the Court concludes that the findings and recommendation should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects. Thus, the Court orders the following:

(1) because plaintiff Marc Harris' assertion of excessive force is properly analyzed under the Fourth Amendment, his Fourteenth Amendment claim is dismissed with prejudice;

(2) because the defendants' use of force was reasonable, plaintiff Marc Harris' Fourth Amendment claim is dismissed with prejudice;

(3) plaintiff Marc Harris' official capacity claims against the defendants are dismissed; and

(4) the defendants' assertion of qualified immunity will not be addressed.

The defendants' motion for summary judgment is granted, and this proceeding is dismissed. Judgment will be entered for the defendants.¹

IT IS SO ORDERED this 17th day of November, 2008.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE

¹ Plaintiff's request for a hearing on defendants' motion for summary judgment has been considered by the Court and is hereby denied.