

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

TERRY WAYNE IMBEAU

PLAINTIFF

v.

Case No. 4:09-cv-686-DPM

MIKE SMITH, JIMMY HART,
PHIL BLAYLOCK, TERRY ALVEY,
LOUIS GOTTSPONER, CODY HILL,
BILLY F. DEEVER, MICHAEL
HAMMONS, PHILIP HOYT, GARY
SAMS, JOHN TRAFFORD, THOMAS
FLOWERS, LAWRENCE WILLIAMS,
and LYLE WILSON

DEFENDANTS

ORDER

The Court has considered Magistrate Judge H. David Young's Proposed Findings and Recommendations, *Document No. 25*, and Terry's Imbeau's objection, *Document No. 29*. After *de novo* review, the Court adopts Judge Young's recommended disposition as its own with an added word. FED. R. CIV. P. 72(b)(3).

The Defendants' motion for summary judgment, *Document No. 13*, is granted. Imbeau's federal claims are dismissed with prejudice because there is no genuine dispute for trial. Imbeau's main claim has a fatal evidentiary

gap: he cannot identify either the inmate who told him a jailer had revealed his sexual-assault charge or the jailer. Imbeau's testimony about what prompted the fight, and what creates the claim, is inadmissible hearsay. It might come in as the basis for the inmates' actions; but there simply is no evidence of the allegation's truth. Imbeau's state claims are dismissed without prejudice. All other pending motions are denied as moot.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

14 July 2011