

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

**RODNEY A. HURDSMAN, WILLIE
FLEETWOOD, MICHAEL HANCOCK,
and KYLE SMITH, on behalf of
themselves and others similarly situated**

PLAINTIFFS

v. Case No. 4:09-cv-892-DPM-JJV

**JAMES L. SALKELD, Director of the
Arkansas Department of Labor and Workforce
Education (ADOL/WE) and board member of the
Arkansas Board of Electrical Examiners (ABEE);
RONALD E. BAKER, ADOL/WE employee,
Administrator to the ABEE, and committee
member of the State Electrical Apprenticeship
Committee (SEAC); RONALD L. CLARK, ADOL/WE
employee; JONATHAN BIBB, ADOL/WE employee;
CHARLES COVINGTON, ABEE staff member and Chief
Electrical Inspector for the State of Arkansas; GARY
FERREL, Chairman of the ABEE; DANNY KING, ABEE
board member; DAN MCALISTER, Chairman of the
SEAC; HARRY CHAPLE, SEAC committee member;
KENNETH LAMKIN, Arkansas State Director, of the
United State Department of Labor, Bureau of
Apprenticeship Training (USDOL/BAT) and SEAC
committee member; and LEE DANNER, USDOL/BAT
employee; individually and in their official capacities**

DEFENDANTS

ORDER

The Court has carefully reviewed the two Proposed Findings and Recommendations from Magistrate Judge Joe J. Volpe. Plaintiffs have not

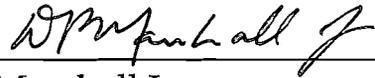
filed any objections. The Court sees no legal error or clear error of fact on the face of this record as a whole. FED. R. CIV. P. 72(b) (advisory committee notes to 1983 addition). The Court therefore adopts Magistrate Judge Volpe's recommended dispositions, *Document No. 59 & 67*, with three clarifications to *Document No. 67*.

First, it does not appear that Agwu, Jennings, and Silinzy were reinstated as Plaintiffs because they failed to comply with the Court's order granting reinstatement, *Document No. 65*. Second, there is no evidence that Hancock and Smith ever applied for credit towards licensure in Arkansas, and the record makes clear that the prison's program no longer exists. These are additional grounds for dismissing Agwu, Jennings, Silinzy, Hancock, and Smith's claims without prejudice. Third, though the Plaintiffs requested class certification in their complaint but have not so moved, the Court agrees with Magistrate Judge Volpe – no basis exists for certification at this point.

Kenneth Lamkin and Lee Danner's motion to dismiss, *Document No. 54*, and their motions for summary judgment, *Document Nos. 54 & 57*, are denied. Plaintiffs Agwu, Jennings, Silinzy, Hancock, and Smith's claims are dismissed without prejudice. Any other pending motions by these five Plaintiffs are

denied as moot. The Court certifies that an *in forma pauperis* appeal from this Order would not be taken in good faith. 28 U.S.C.A. § 1915(a)(3) (West 2006).

So Ordered.



D.P. Marshall Jr.
United States District Judge

3 Nov. 2010