

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

EUGENE SPEARS

PLAINTIFF

v.

CASE NO. 4:11CV00299 BSM/JTK

ANGELA BROWN, et al.

DEFENDANTS

ORDER

The proposed findings and partial recommended disposition submitted by United States Magistrate Judge Jerome T. Kearney and the objections have been reviewed. After careful consideration and a *de novo* review of the record, it is concluded that the proposed findings and partial recommended disposition should be, and hereby are, adopted in part and rejected in part. The recommended disposition is adopted in all respects except that plaintiff Eugene Spears's non-monetary claims against defendants in their official capacities are rejected and summary judgment is granted because Spears is no longer incarcerated and those claims are therefore moot. *See Martin v. Sargent*, 780 F.2d 1334, 1337 (8th Cir. 1985) ("[A] prisoner's claim for injunctive relief to improve prison conditions is moot if he or she is no longer subject to those conditions.").

IT IS THEREFORE ORDERED that:

1. Defendants' motion to strike plaintiff's motion for summary judgment [Doc. No. 55] is granted.
2. Defendants' motion for summary judgment [Doc. No. 46] is granted in part, with respect to Spears's monetary and non-monetary claims against them in their official

capacities, and denied in all other respects.

3. 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 1st day of October 2012.


UNITED STATES DISTRICT JUDGE