

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

**JEFFERY C. BENNETT  
ADC #600216**

**PLAINTIFF**

**v.**

**No: 4:12-cv-134-DPM-HDY**

**BRUCE PENNINGTON *et al.***

**DEFENDANTS**

**ORDER**

The Court has considered Magistrate Judge H. David Young's Proposed Findings and Recommended Disposition, *Document No. 36*, and Bennett's objections, *Document No. 37*. *De novo* review of this record shows delay in getting the antibiotics during the year-end holidays and no full-court press to get the dental appointment sooner. All this is regrettable but not unconstitutional. The Court therefore adopts the Proposed Findings and Recommended Disposition with a further word. FED. R. CIV. P. 72(b)(3).

The Court understands that dental problems can be very painful, that uncertainty about the upcoming appointment distressed Bennett, and that almost 10 weeks is a long time to wait for a dental appointment when a

person needs teeth pulled. But the precedent is clear that negligence, even gross negligence, is not deliberate indifference. *E.g., Estate of Rosenberg v. Crandell*, 56 F.3d 35, 37 (8th Cir. 1995). The circumstances here did not rise to the level of an Eighth Amendment violation, especially in light of what the prison staff did before Bennett's scheduled appointment—requesting the antibiotic prescriptions, administering topical pain reliever, and providing lots of ibuprofen.

Defendants' motion for summary judgment, *Document No. 27*, is granted. Bennett's complaint is dismissed with prejudice.

So Ordered.

  
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D.P. Marshall Jr.  
United States District Judge

3 October 2012