

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

JAMIE SHAWN McCALL
ADC #610019

PLAINTIFF

v.

No. 4:14-cv-333-DPM

SHOCK, Sheriff, Faulkner County;
DOE, Major, Faulkner County Jail; and
LLOYD VINCENT, Captain, Faulkner
County Jail

DEFENDANTS

ORDER

On *de novo* review, the Court adopts the recommendation, *No* 65, as supplemented and overrules McCall's objections, *No* 71. FED. R. CIV. P. 72(b)(3).

1. Tuberculosis lights and testing. Courts have upheld similar tuberculosis-prevention measures. *Gibbs v. Grimmette*, 254 F.3d 545 (5th Cir. 2001). Thus, even if the measures taken here were constitutionally inadequate, that inadequacy was not clearly established. *Plumhoff v. Rickard*, 134 S. Ct. 2012, 2022-23 (2014).

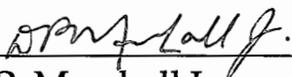
2. Cleaning cups and spoons. Requiring inmates to wash their cups and spoons with the same soap they use to clean their bodies would be troubling. But the undisputed fact is that inmates are given *two* small bars of

soap each week. *E.g., No 71 at 3.* The Court sees no reason why inmates can't use one bar for personal hygiene and the other for cleaning their jail-issued mess kits. While perhaps not ideal, under the totality of the circumstances, this condition isn't clearly unconstitutional either. *Cf. Stickley v. Byrd*, 703 F.3d 421, 423-24 (8th Cir. 2013).

* * *

The conditions McCall complains of may "merit[] some management criticism[.]" *Stickley*, 703 F.3d at 423-24 (internal quotation omitted). But they don't amount to violations of clearly established constitutional rights by Defendants Shock and Vincent. Because McCall can't clear the high bar qualified immunity sets, Shock and Vincent's motion for summary judgment, *No 51*, is granted. McCall's claims against them will be dismissed with prejudice. McCall's claims against the John Doe Defendant will be dismissed without prejudice for failure to serve.

So Ordered.



D.P. Marshall Jr.
United States District Judge



8 September 2015