

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

**RONNY RAY MCFALL  
ADC #654721**

**PLAINTIFF**

**v.**

**Case No. 4:14-cv-00716-KGB**

**SOUTHERN HEALTH PARTNERS INC.,  
and TIFFANY EICHLER**

**DEFENDANTS**

**ORDER**

The Court has reviewed the Proposed Findings and Recommendations submitted by United States Magistrate Judge Jerry W. Cavaneau (Dkt. No. 27) and the objections filed by plaintiff Ronny Ray McFall (Dkt. No. 30). After carefully considering the objections and making a *de novo* review of the record in this case, the Court concludes that the Proposed Findings and Recommendations should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects. Accordingly, the Court grants in part and denies in part defendants' motion to dismiss (Dkt. No. 12). The Court grants the motion as to Mr. McFall's claims against defendants in their official capacities and dismisses those claims without prejudice. The Court denies the motion in all other respects.

Also before the Court is Mr. McFall's motion to strike defendants' motion to dismiss and brief in support (Dkt. No. 28), to which defendants have responded (Dkt. No. 29) and Mr. McFall has replied (Dkt. No. 32). To the extent Mr. McFall requests that this Court consider his motion to strike defendants' motion to dismiss and brief in support as an amendment to his objections to the Proposed Findings and Recommendations, this Court has done so. Mr. McFall argues in his motion to strike that defendants' motion to dismiss and brief in support do not take into account Mr. McFall's motion to amend in which he seeks to clarify that he alleges both

official and personal capacity claims (Dkt. No. 25). This is not a basis for striking defendants' motion and brief, and Judge Cavaneau's Proposed Findings and Recommendations took into account Mr. McFall's motion to amend clarifying that Mr. McFall alleges both official and personal capacity claims. Accordingly, the Court denies Mr. McFall's motion to strike (Dkt. No. 28), and the Court has considered these arguments when evaluating the Proposed Findings and Recommendations, Mr. McFall's objections, and the *de novo* record.

It is therefore ordered that:

1. The Court grants in part and denies in part defendants' motion to dismiss (Dkt. No. 12). The Court grants the motion as to Mr. McFall's claims against defendants in their official capacities and dismisses those claims without prejudice. The Court denies the motion in all other respects.

2. The Court denies Mr. McFall's motion to strike (Dkt. No. 28).

SO ORDERED this the 1st day of September, 2015.



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Kristine G. Baker  
United States District Judge