

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

**KENNETH DORN,
ADC #169545**

PLAINTIFF

v.

Case No. 4:20-cv-00903-KGB-JTK

WENDY KELLEY, *et al.*

DEFENDANTS

ORDER

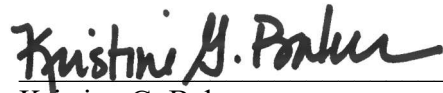
The Court has received Proposed Findings and Recommendations from United States Magistrate Judge Jerome T. Kearney entered October 1, 2020 (Dkt. No. 8). Plaintiff Kenneth Dorn filed timely objections (Dkt. No. 13). After a review of those Proposed Findings and Recommendations, and the timely objections received thereto, as well as a *de novo* review of the record, the Court adopts in part and declines to adopt in part the Proposed Findings and Recommendations.

The Proposed Findings and Recommendations recommend that Mr. Dorn's due process claims against defendants Keith Waddle, Jared Byers, Raymond Naylor, Dexter Payne, and William Straughn be dismissed without prejudice and that Mr. Dorn's claims against defendants Wendy Kelley, Justine Minor, Terri Bannister, Dana McCoy, and LaSonya Scott be dismissed without prejudice for failure to state a claim upon which relief may be granted. Mr. Dorn objected to the dismissal of his due process claims and argued that "the actions of Defendants Keith Waddle, Jared Byers, Raymond Naylor and Dexter Payne were in direct relation to the actions of Defendants Jonnie Barton, Richard Clark and Claudia Harris by allowing and upholding a wrongful and unlawful disciplinary and disciplinary process" (Dkt. No. 13, at 1).

On review of the record, the Court agrees that Mr. Dorn's due process claims are related to his excessive force claims; Judge Kearney's recommendation with respect to those claims is not

adopted. In his amended complaint, Mr. Dorn alleges that, on July 30, 2020, Mr. Barton used excessive force against him and that, as a result of this incident, he was subjected to a disciplinary process in violation of his due process rights (Dkt. No. 6, at 5–6). Mr. Dorn may proceed with his due process claims against Mr. Waddle, Mr. Byers, Mr. Naylor, Mr. Payne, and Mr. Straughn in this action, as those claims are related to the underlying allegations regarding excessive force that are allowed to proceed. The Court dismisses without prejudice Mr. Dorn’s claims against Ms. Kelley, Ms. Minor, Ms. Bannister, Ms. McCoy, and Ms. Scott for failure to state a claim upon which relief may be granted; that recommendation is adopted. Accordingly, the Court adopts in part and declines to adopt in part the Proposed Findings and Recommendations (Dkt. No. 8).

It is so ordered this 29th day of January, 2021.

A handwritten signature in black ink, reading "Kristine G. Baker". The signature is written in a cursive style with a horizontal line underneath it.

Kristine G. Baker
United States District Judge