

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

**FREDERICK J. BARTON
ADC #142505**

PLAINTIFF

v.

No. 4:23-cv-447-DPM

**JAMES HILL, Sergeant, P.C.R.D.F.;
VIRMESA JACKSON, Deputy,
P.R.C.D.F.; MATTHEW COBB,
Sergeant, P.C.R.D.F.; CHARLES
ALLEN, Lieutenant, P.C.R.D.F.; and
NIKKHOL HARRIS, Deputy, P.C.R.D.F.**

DEFENDANTS

ORDER

1. On *de novo* review, the Court adopts Magistrate Judge Moore's recommendation, *Doc. 59*, and overrules Barton's objections, *Doc. 60*. Fed. R. Civ. P. 72(b)(3). Although Barton says Sergeant Cobb ignored his request to see the nurse, he doesn't say when he put in the request. Medical personnel evaluated Barton immediately after the incident and noted that Barton was "already on a lot of pain medication," which had previously been prescribed for his ankle. *Doc. 47 at 9-10; Doc. 47-4*. And it's undisputed that Barton was prescribed more naproxen and acetaminophen about six weeks after the incident. *Doc. 47-4 at 11 & 21-24*. Motion to amend, *Doc. 50*, granted. Motion for summary judgment, *Doc. 45*, granted. Barton's excessive force and First Amendment retaliation claims will be dismissed with

prejudice. His inadequate medical care claim will be dismissed without prejudice.

2. Barton's motion to compel, *Doc. 61*, is denied as moot.

3. Barton's post-recommendation motion to amend, *Doc. 62*, is denied. Fed. R. Civ. P. 15(a)(2). Barton mentioned Officer Devore in his original complaint. *Doc. 2 at 4*. But he didn't name Officer Devore as a defendant in his original complaint or in later motions to amend. Barton filed this most recent motion to amend more than a year after this case started and after summary judgment had been fully briefed. He hasn't given a sufficient reason for the delay in adding Officer Devore as a party.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

3 September 2024