

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

**KEVIN WILLIAMS  
ADC #169904**

**PLAINTIFF**

v.

**No. 4:23-CV-00451-LPR**

**FITZPATRICK, et al.**

**DEFENDANTS**

**ORDER**

The Court has reviewed the Recommended Disposition (RD) submitted by United States Magistrate Judge Jerome T. Kearney.<sup>1</sup> No objections have been filed, and the time for doing so has expired. After a *de novo* review of the RD, along with careful consideration of the case record, the Court hereby approves and adopts the RD in its entirety as this Court's findings and conclusions in all respects.<sup>2</sup>

Accordingly, this action is DISMISSED without prejudice for failure to state a claim upon which relief may be granted. The Court recommends that dismissal of this case count as a "strike," in the future, for purposes of 28 U.S.C. § 1915(g). The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order or the accompanying Judgment would not be taken in good faith.

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<sup>1</sup> Doc. 6.

<sup>2</sup> The Court additionally takes note of Plaintiff's allegations that Defendants Vincent, Jackson, and Reed "gawked, laughed, ridiculed, shamed, and humiliated Plaintiff" while Defendant Fitzpatrick performed the strip search. Compl. (Doc. 2) at 2. To the extent Plaintiff attempts to state an Eighth Amendment claim against the female Defendants for sexual harassment, this claim also fails. Plaintiff's allegations are vague and nonspecific. But even assuming the worst, they fail to "allege[] a deprivation of constitutional magnitude" in this Circuit. *Howard v. Everett*, 208 F.3d 218 (8th Cir. 2000) (unpublished opinion). In *Howard*, the Eighth Circuit held that even where prison guards' "sexual comments and gestures were reprehensible," such "sexual harassment, absent contact or touching, does not constitute unnecessary and wanton infliction of pain." *Id.* As Plaintiff has not alleged any physical contact or touching by the female Defendants, he has failed to state a § 1983 claim of this nature—certainly he has failed to state one that would get past qualified immunity.

IT IS SO ORDERED this 5th day of February 2024.

A handwritten signature in black ink, appearing to read "Lee P. Rudofsky", written over a horizontal line.

LEE P. RUDOFSKY  
UNITED STATES DISTRICT JUDGE