

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

**LUKE MILLS
#119075**

PLAINTIFF

v.

Case No. 4:23-cv-00701-KGB

**HUFFMAN, Captain,
Faulkner County Jail; et al.**

DEFENDANTS

ORDER

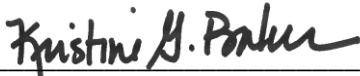
Before the Court is a Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe (Dkt. No. 4). Plaintiff Luke Mills has not filed objections, and the time to do so has passed. After careful consideration, the Court adopts the Recommended Disposition in its entirety as this Court's findings in all respects, with one modification: The Court understands Mr. Mills to have alleged that he is a member of an indigent class and that his indigency is the basis of the alleged discrimination (Dkt. No. 2, at 4).

Mr. Mills alleges that the facility in which he is incarcerated chose a phone company that does not allow collect calls unless prisoners have "money on [t]he [b]ooks or on [th]e [p]hone" and that he is "[i]ndigent and [has] [n]o way of calling [his] family" (*Id.*). The Court understands Mr. Mills to allege membership within an indigent class or group and that Mr. Mills's wealth is the basis of the purported discrimination (Dkt. No. 2, at 4). Judge Volpe analyzes Mr. Mills's claim under rational basis review as a class-of-one claim (Dkt. No. 4, at 2–3). However, wealth-based discrimination against an indigent class is also subject to rational basis review. *See San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 28–29 (1973); *Mark One Elec. Co., Inc. v. City of Kansas City*, 44 F.4th 1061, 1066 (8th Cir. 2022). The Court finds that Judge Volpe's Recommended Disposition properly analyzed Mr. Mills's complaint under rational basis review

(Dkt. No. 4, at 3). Even if this is the claim Mr. Mills intended to allege, the outcome is the same.

For these reasons, the Court adopts the Recommended Disposition as modified (Dkt. No. 4). Accordingly, the Court dismisses the complaint without prejudice for failing to state a claim upon which relief may be granted (Dkt. No. 2). Mr. Mills's motion to appoint counsel is denied as moot (Dkt. No. 5). The Court recommends that, in the future, dismissal of this action count as a strike under 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 and accompanying Judgment would be frivolous and not taken in good faith.

It is so ordered this 28th day of August, 2024.



Kristine G. Baker
Chief United States District Judge