

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

RICKY UPTON
ADC #116955

PLAINTIFF

V.

NO: 5:09CV00083 JMM

ALVA GREEN *et al.*

DEFENDANTS

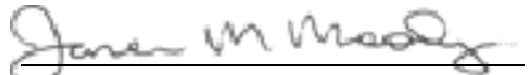
ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge H. David Young, and the objections filed.¹ 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 Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.

IT IS THEREFORE ORDERED THAT:

1. Defendants' motion for summary judgment (docket entry #45) is GRANTED.
2. Plaintiff's claims against Alva Green, Junaita Stell, and Correctional Medical Services, Inc., are DISMISSED WITHOUT PREJUDICE.
3. Plaintiff's claims against Rita Odom are DISMISSED WITH PREJUDICE.

DATED this 23 day of April, 2010.


UNITED STATES DISTRICT JUDGE

¹Plaintiff continues to argue that defendant Odom was working under a expired APN nursing licensing at the time of his treatment which he contends precludes the grant of summary judgment. He has not, however, presented any evidence that this had any effect on his treatment which would result in a violation of his rights. "Mere negligence or medical malpractice are insufficient to rise to a constitutional violation." *Dulany v. Carnahan*, 132 F.3d 1234, 1239 (8th Cir.1997).