

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

**JIMMY DOYLE BUMGARDNER,
ADC # 103669**

PLAINTIFF

v.

CASE NO. 5:09cv00345 BSM/JJV

**JOHN WHALEY, Assistant Warden, ADC;
GARDNER, Lt., Varner Super Max, ADC;
WASHINGTON, Sgt., Varner Super Max,
ADC; EMSWELLEN, Sgt., Varner Super
Max, ADC; DOES, Unknown Officer and
Employees, Varner Super Max, ADC;**

DEFENDANTS

ORDER

The proposed findings and recommended disposition submitted by United States Magistrate Judge Joe J. Volpe have been reviewed. No objections have been filed. After careful consideration, it is concluded that the proposed findings and recommended disposition should be, and hereby are, approved and adopted in their entirety in all respects.

It is important to note, however, that plaintiff's response to defendants' motion for summary judgment was not filed until the day the proposed findings and recommended disposition were filed. Therefore his response was not addressed in the proposed findings and recommended disposition. In his response plaintiff states that in the July 1, 2009, grievance, VSM-09-1621, he complains of illegal strip searches on May 19, 21 and 22, 2009. While this is true, he still fails to give the names of the personnel involved or witnesses, as required by the ADC grievance procedure. He did not exhaust his administrative remedies.

Additionally, the proposed findings and recommended disposition place great

emphasis on the requirement under the ADC grievance procedure that the personnel involved be named in the grievance. It appears, however, that an inmate may name the personnel involved *or* witnesses. Plaintiff's grievances are devoid of both.

IT IS THEREFORE ORDERED that:

1. Defendants' motion for summary judgment [Doc. No. 44] is GRANTED;
2. Plaintiff's complaint and amended complaints [Doc. Nos. 2, 18, 19] are dismissed without prejudice for failure to exhaust administrative remedies.

DATED this 20th day of April, 2011.


UNITED STATES DISTRICT JUDGE