

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

DON MERCELEANY R. MAXWELL/G-DOFFEE,
ADC #108778

PLAINTIFF

v.

No. 5:09CV00379 JLH-JTK

DARRYL GOLDEN, *et al.*

DEFENDANTS

ORDER

The Court has received proposed findings and recommendations from United States Magistrate Judge Jerome T. Kearney. After a review of those proposed findings and recommendations, and the timely objections received thereto, as well as a *de novo* review of the record, the Court adopts them, except with respect to the recommendation that the plaintiff's access to courts claim be dismissed.¹ Accordingly,

IT IS, THEREFORE, ORDERED that:

1. Defendants' motion for summary judgment is GRANTED IN PART with respect to the plaintiff's freedom of religion, due process, and equal protection claims.
2. Defendants' motion for summary judgment is GRANTED IN PART with respect to the allegations set forth against defendants Ray Butler, Corderro Davis, Letha Phillips, Sharon Carter, Larry May, Michael Jackson, Sharon Penister, Maple Adkins, Angela Tyler, Leon Williams, David White, Douglas Allen, Angelah Kennedy, Peggy Green, Jamarrick Scarbough,

¹ Magistrate Judge Kearney recommended that the plaintiff's claim that he was denied access to the courts be dismissed because the plaintiff produced no evidence that the alleged interference with legal mail resulted in an injury such as dismissal of a claim. The plaintiff has attached to his objection a copy of an order dismissing his Rule 37 petition as untimely. Although it does not appear that the plaintiff submitted that evidence before the magistrate judge submitted his recommended disposition, the Court has considered it, and it appears to create a fact issue on the question of whether the plaintiff suffered actual injury for the alleged failure to mail legal papers to the Court.

Deanne Jackson, Brandace Binns, Sgt. Williams, CO Jones, CO-1 Hurt, K. Tate, S. Brown, Sgt. Crockett, Eason, and Sgt. Thomas.

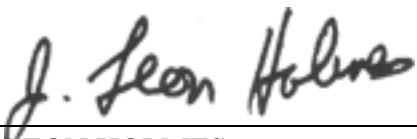
3. The above named defendants are DISMISSED from plaintiff's complaint.

4. Defendants' motion for summary judgment is GRANTED IN PART with respect to plaintiff's claims against the defendants in their official capacities for money damages.

5. Defendants' motion for summary judgment is DENIED IN PART with respect to plaintiff's access to courts, freedom of speech, and retaliation claims against defendants Golden, Gordon, Conrad, Perkins, Hobbs, Payne, Chase, Wilson, Diggs, and Cox.

6. Defendants may file a supplemental summary judgment motion addressing the access to courts, free speech, and retaliation claims within 30 days of the entry of this Order.

IT IS SO ORDERED this 29th day of March, 2011.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE