

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

TIMOTHY WISE
ADC #100788

PLAINTIFF

V.

NO: 5:10CV00283 JMM

MARVIN EVANS *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. 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. Plaintiff's complaint is DISMISSED WITH PREJUDICE for failure to introduce sufficient evidence to create a fact issue to be submitted to a jury with respect to his claims against Defendant Michael Bieber.
2. Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE in all other respects for failure to exhaust his administrative remedies.
3. The Court certifies that an *in forma pauperis* appeal taken from the order and judgment dismissing this action is considered frivolous and not in good faith.

DATED this 16 day of June, 2011.


UNITED STATES DISTRICT JUDGE