

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

ANDREW DOMINIC ROBINSON
ADC # 652013

PLAINTIFF

v. No. 5:10-cv-324-DPM-JTR

BRIAN PERKINS, Sgt., Varner
Super Max, ADC

DEFENDANT

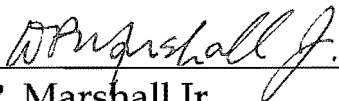
ORDER

Perkins has timely objected, *Document No. 59*, to Magistrate Judge Ray's proposed findings and recommended partial disposition, *Document No. 58*. Perkins disputes several portions of Judge Ray's summary of the relevant facts. The Court has reviewed *de novo*. FED. R. CIV. P. 72(b)(3).

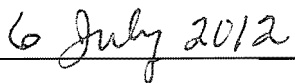
Perkins's objections underscore the need for a trial. In the end, it will be the jury – not the Court – who resolves the many factual disputes. The Court therefore adopts Judge Ray's uncontested legal conclusions: Robinson's request for prospective injunctive relief against Perkins is denied as moot; and a jury trial is necessary to resolve Robinson's excessive-force claim against Perkins in his individual capacity only. Perkins's motion for summary judgment, *Document No. 33*, is granted in part and denied in part.

The Court requests that the parties consider consenting to a jury trial before Judge Ray. He is very familiar with the case; so a trial before him would promote judicial economy. And Judge Ray would be able to hold the jury trial long before I will be able to do so. Notwithstanding those factors, if either party prefers that I preside, of course I will. Any consent form must be filed by 30 July 2012. A final scheduling order setting this case for trial will issue from me or Judge Ray thereafter.

So Ordered.



D.P. Marshall Jr.
United States District Judge



6 July 2012