

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

THOMAS MARVIN FERRIEL, II
ADC #137119

PLAINTIFF

v.

Case No. 5:10-cv-325-DPM

RAY HOBBS, GRANT E. HARRIS,
MARK CASHION, RONALD GANA,
JOHNNIE HARRIS, SHAMON TYLER,
C. LAGRONE, ANGELA LEWIS,
TERESA WILLIAMS, P. SMITH, FORD,
and L. HICKS

DEFENDANTS

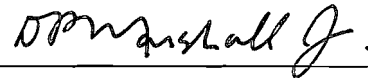
ORDER

The Court has carefully reviewed Magistrate Judge J. Thomas Ray's Proposed Findings and Recommended Disposition, *Document No. 18*, and Thomas Ferriel's objections, *Document No. 27*. After *de novo* review, the Court adopts Judge Ray's recommended disposition as its own with clarifications mostly prompted by Ferriel's objections. FED. R. CIV. P. 72(b)(3). First, the Court grants Ferriel's request to abandon his Fifth and Sixth Amendment claims; and they are resolved on that basis. Second, the facts alleged – even as amplified a bit in the objections – simply do not state Due Process or Eighth

Amendment claims. Third, the Court does not adopt the citation to the older unpublished opinions in *Sanders* and *Driscoll*.

Ferriel's complaint as amended, *Document Nos. 2-1, 16, & 17*, is dismissed without prejudice for failure to state a claim. This dismissal counts as a "strike" for purposes of 28 U.S.C. § 1915(g). The Court certifies that an *in forma pauperis* appeal from this Order and the accompanying Judgment would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.



D.P. Marshall Jr.
United States District Judge

21 April 2011