

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

SHANNON BOYLE,
ADC #116113

PLAINTIFF

V.

5:11CV00014 JMM/JTR

GAYLON LAY,
Warden, Cummins Unit,
Arkansas Department of Correction, et al.

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Partial Disposition submitted by United States Magistrate Judge J. Thomas Ray. No objections have been filed. After careful review, the Court concludes that the Proposed Findings and Recommended Partial 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:

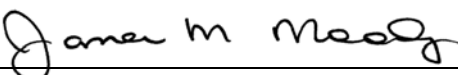
1. Defendants' Motion for Summary Judgment (docket entry #57) is GRANTED in part and DENIED in part.

2. Defendants Lay and Robertson are DISMISSED, WITHOUT PREJUDICE, because Plaintiff failed to exhaust his administrative remedies against them.

3. Plaintiff may PROCEED with his excessive force claim against Defendants Earl and Fitzpatrick in their individual capacities only.

4. The Court CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

Dated this 6th day of March, 2012.


UNITED STATES DISTRICT JUDGE