

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

SHANNON BOYLE
ADC #116113

PLAINTIFF

V.

5:11CV0014 JMM/JTR

GAYLON LAY, Warden,
Cummins Unit, 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. Plaintiff's Fourteenth Amendment due process claims are DISMISSED, WITHOUT PREJUDICE, for failing to state a claim upon which relief may be granted.
2. Plaintiff shall PROCEED with his Eighth Amendment excessive force claims against Defendants.
3. The Clerk is directed to prepare a summons for Defendants Lay, Robertson, Earl, and Fitzpatrick, and the U.S. Marshal is directed to serve the summons, the Complaint, and this Order on them through the ADC Compliance Division, without prepayment of fees and costs or security

therefor.¹

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 18th day of February, 2011.


UNITED STATES DISTRICT JUDGE

¹If any of the Defendants are no longer ADC employees, the ADC Compliance Office shall file, with the return of unexecuted service, a **SEALED** Statement providing the last known private mailing address for the unserved Defendant.