

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

KENNY HALFACRE, ADC # 84410,

PLAINTIFF

v.

No. 5:11CV00101-JLH

CHERYL V. JONES, Correctional
Sergeant, Varner Unit, Arkansas
Department of Correction

DEFENDANT


ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe and Halfacre's objections. After carefully considering the objections and making a *de novo* review of the record, 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. In addition, Halfacre was convicted of the disciplinary violation that he alleges was written out of a retaliatory motive, but he cannot prevail on that claim because there was some evidence that he was guilty of the disciplinary violation of which he was convicted. *Hartsfield v. Nichols*, 511 F.3d 826, 829-30 (8th Cir. 2008).

IT IS, THEREFORE, ORDERED that:

1. This cause of action is DISMISSED without prejudice for failure to exhaust all administrative remedies.
2. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from an Order adopting these recommendations would not be taken in good faith.

DATED this 26th day of August, 2013.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE