

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

KENNETH LEWIS,
ADC #87974

PLAINTIFF

V. 5:11CV00256 SWW/JTR

C.W. HALL, Chief of Security; and
ALICE HEARD, Correctional Officer,
Diagnostic Unit, Arkansas Department of Correction

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 pendent state law negligence claims are DISMISSED, WITH PREJUDICE, and he may PROCEED with his Eighth Amendment failure to protect claims against Defendants Hall and Heard.
2. The Clerk is directed to prepare a summons for Defendants Hall and Heard, and the U.S. Marshal is directed to serve the summons, Complaint, and this

Order on them through the ADC Compliance Division without prepayment of fees and costs or security therefor.¹

4. Defendants shall LOCATE AND PRESERVE any available video recordings of the July 24, 2010 attack on Plaintiff.

5. 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 2nd day of November, 2011.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE

¹If either 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.