

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

JEFFERY COWGILL,
ADC #145476

PLAINTIFF

v.

5:12-cv-00112-JMM-JTK

RAY HOBBS, et al.

DEFENDANTS

ORDER

The Court has received proposed findings and recommendations from United States Magistrate Judge Jerome T. Kearney. After a review of those proposed findings and recommendations, and the timely objections received thereto, as well as a de novo review of the record, the Court adopts them in their entirety with the exception of the recommendations as to Plaintiff's *respondeat superior* claims brought pursuant to the Arkansas Civil Rights Act. Although Defendants failed to argue this point initially, the Court finds that the *respondeat superior* claims brought pursuant to the ACRA against Hobbs, Kelley, Lay and Griffin must be dismissed because these claims are not a basis for liability under the ACRA. *See Jones v. Huckabee*, 250 S.W.3d 241 (Ark. 2007).

Accordingly,

IT IS, THEREFORE, ORDERED that:

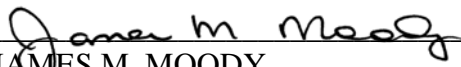
- 1) Defendants' Motion for Judgment on the Pleadings (Doc. No. 24) is GRANTED in part, with respect to Plaintiff's monetary claims against them in their official capacities;
- 2) Defendants' Motion for Judgment on the Pleadings (Doc. No. 24) is GRANTED in part, with respect to the § 1983 allegations against Defendants Hobbs, Kelley, Lay, and Griffin;
- 3) Defendants' Motion for Judgment on the Pleadings (Doc. No. 24) is GRANTED in part, with respect to Plaintiff's retaliation allegations;

4) Defendants' Motion for Judgment on the Pleadings (Doc. No. 24) is GRANTED in part, with respect to Plaintiff's *respondeat superior* claims against Hobbs, Kelley, Lay and Griffin brought pursuant to the Arkansas Civil Rights Act;

5) Defendants' Motion for Judgment on the Pleadings (Doc. No. 24) is DENIED, with respect to Plaintiff's Eighth Amendment claims against Defendants Warner, Holthoff, and Moncrief;

6) Defendants' Motion for Judgment on the Pleadings (Doc. No. 24) is DENIED, with respect to their request to sever claims.

IT IS SO ORDERED this 24th day of September, 2012.



JAMES M. MOODY
UNITED STATES DISTRICT JUDGE