

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

BYRON L. WALLACE,  
ADC #107098

PLAINTIFF

v.

No. 5:13CV00068 JLH/JTR

MARK WARNER, Deputy Assistant Warden,  
Cummins Unit, Arkansas Department  
of Correction, et al.

DEFENDANTS

**ORDER**

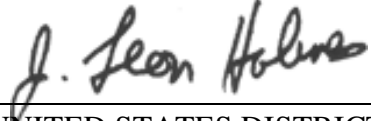
The Court has reviewed the Proposed Findings and Recommended Partial Disposition submitted by United States Magistrate Judge J. Thomas Ray and the filed objections. After carefully considering these documents and making a *de novo* review of the record in this case, the Court concludes that the Proposed 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 partial summary judgment is GRANTED as to plaintiff's failure to protect claims against defendants Hobbs, May, Lay, Warner, and Tate; and DENIED in all other respects. Document #24.
2. Defendants Hobbs, May, Lay, Warner, and Tate are DISMISSED, WITHOUT PREJUDICE, because plaintiff has failed to properly exhaust his administrative remedies against them.
3. Plaintiff may PROCEED with his failure to protect, excessive force, equal protection, and cruel and unusual punishment claims against defendants Walker and Rayner.

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 30th day of September, 2013.

  
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UNITED STATES DISTRICT JUDGE