

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

**FRANK JAMES BLASINGAME
ADC # 140321**

PLAINTIFF

v. No. 5:13-cv-253-DPM-HDY

**JOY JONES, Correctional Sergeant,
ADC, Delta Unit; JAMES T. BANKS,
Head Warden, ADC, Delta Unit;
RAYMOND NAYLOR, Disciplinary
Hearing Administrator, ADC; and
JAMES BANKS, Security Warden, ADC,
Delta Unit**

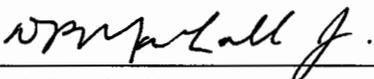
DEFENDANTS

ORDER

The Court has considered Magistrate Judge H. David Young's proposed findings and recommendations, *No. 4*, and Blasingame's objections, *No. 5*. On *de novo* review, the Court adopts Judge Young's recommendations, modified to a dismissal without prejudice and with a supplement. FED. R. CIV. P. 72(b)(3). While it is unfair that Blasingame was not allowed to present evidence from the officer witness whom Blasingame says would have exonerated him, the evidentiary burden established by precedent is so minimal in the prison-discipline context that the witness's absence did not offend the Constitution. Blasingame says in his objection that ADC is depriving him of TV and radio access in his cell, serves cold and poorly

proportioned food, and provides inadequate medical care. *No 5 at 2*. And other inmates, he continues, prevent his use of the prison yard. *Ibid*. To the extent Blasingame intends to raise new Eighth Amendment claims with these statements, they are rejected; the allegations are much too thin to state a claim. FED. R. CIV. P. 12(b)(6). Blasingame's complaint, *No 2*, is dismissed without prejudice. This dismissal is a strike. 28 U.S.C. § 1915(g).

So Ordered.



D.P. Marshall Jr.
United States District Judge



28 August 2013