

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

KENDRICK STORY
ADC #109934

PLAINTIFF

v. No. 5:13-cv-286-DPM-JJV

MARK CASHION, Warden, Randall
L. Williams Unit; and EMMA WATERS,
Kitchen Supervisor, Randall L. Williams Unit

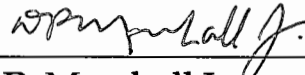
DEFENDANTS

ORDER

Opposed recommendation, *No. 15*, adopted as modified. FED. R. CIV. P. 72(b)(3). Story's claim against Cashion is barred by *res judicata* because the Court made a final decision on the merits of this same cause of action in *Story v. Hobbs*, 5:13-cv-72-BSM-JTR. Story's claim against Waters fails too. The Court takes his allegations as the truth: Brother Miller misunderstood what Story meant when he said that he had no problem with the other inmate; Story clarified to Waters that the other inmate indeed had a problem with him; Waters then told Story to leave it alone or go to the barracks, and left the area. Taken together, these assumed circumstances amount at most to unactionable negligence by Waters, not deliberate indifference. *Pagels v. Morrison*, 335 F.3d 736, 740 (8th Cir. 2003). Story has failed again to state a

claim against Waters.

So Ordered.



D.P. Marshall Jr.
United States District Judge

