

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

**JONATHAN SEIF
ADC # 151680**

PLAINTIFF

v.

Case No. 5:15-cv-00160-KGB-JJV

**WENDY KELLY, Director,
Arkansas Department of Correction; et al.**

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommendations (Dkt. No. 40) and the second Proposed Findings and Recommendations (Dkt. No. 52) submitted by United States Magistrate Judge Joe J. Volpe. No objections have been filed to either of these Proposed Findings and Recommendations, and the time for filing objections has passed. After careful review, the Court concludes that the Proposed Findings and Recommendations (Dkt. No. 40) and the second Proposed Findings and Recommendations (Dkt. No. 52) 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 Jonathan Seif's claims against defendants Karen Page and Joshua Mayfield are dismissed without prejudice.
2. Defendants' motion for summary judgment on exhaustion is granted (Dkt. No. 42).
3. Mr. Seif's First Amendment free exercise and Fourteenth Amendment equal protection claims against defendants Wendy Kelley, Marvin Evans, David White, and John Wheeler are dismissed without prejudice due to Mr. Seif's failure to exhaust administrative remedies.

4. Defendants' motion for summary judgment on liability is granted in part and denied in part (Dkt. No. 45).

A. Mr. Seif's First Amendment free exercise and Fourteenth Amendment equal protection claims against defendants Eddie Selvey and Patrick McCown are dismissed with prejudice.

B. The motion is denied as moot in all other respects.

5. Mr. Seif's retaliatory transfer claim is dismissed *sua sponte* and without prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).

6. 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.

SO ORDERED this 8th day of January, 2016.



KRISTINE G. BAKER
UNITED STATES DISTRICT JUDGE