

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

**MARK HOLSOMBACH
ADC# 134723**

PLAINTIFF

v.

CASE NO. 5:15CV00222 BSM

WENDY KELLEY et al.

DEFENDANTS

ORDER

The recommended disposition (“RD”) filed by United States Magistrate Judge Beth Deere and plaintiff Mark Holsombach’s objections thereto have been reviewed. After carefully considering these documents and reviewing the record *de novo*, the RD is adopted on the issue of exhaustion, and defendants’ motion for summary judgment on this issue is denied, and the RD is rejected as to its recommendation that plaintiff’s claim for injunctive relief be denied.

Judge Deere denied defendants’ motion for summary judgment, which only asserted that plaintiff failed to exhaust his administrative remedies. She proceeded to screen plaintiff’s claim for injunctive relief and dismissed it based on her conclusion that plaintiff cannot show immediate threat because he is being held in administrative segregation, is not allowed to have contact with the general prison population, and is escorted by two prison officers each time he leaves his cell. *See* 28 U.S.C. § 1915A. In his objection, however, plaintiff alleges that general population inmates are allowed to access administrative segregation freely. *See* Holsombach Objs. at 15, Doc. No. 19. He states that these inmates perform various jobs in segregation, which leaves segregation inmates exposed. *See id.*

Plaintiff also alleges that he witnessed another administrative segregation inmate being stabbed while escorted by two prison guards. *Id.*

In that prison officials are bound by the Eighth Amendment to take reasonable measures to guarantee inmate safety, *Irving v. Dormire*, 519 F.3d 441, 450 (8th Cir. 2008), plaintiff has sufficiently alleged an immediate threat to his safety so as to survive screening. Accordingly, in light of plaintiff's new allegations, the RD is rejected on plaintiff's claims for injunctive relief.

IT IS THEREFORE ORDERED that:

- 1 Defendants' motion for summary judgment [Doc. No. 14] is denied.
- 2 The clerk is directed to remand this case to Judge Deere for proceedings consistent with this order.

IT IS SO ORDERED this 16th day of September 2015 day.


UNITED STATES DISTRICT JUDGE