

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

ROBERT E. HOWELL, SR. *et al*

PLAINTIFFS

V.

NO: 5:15CV00316 PSH

WENDY KELLY *et al*

DEFENDANTS

ORDER

On December 16, 2016, the undersigned issued findings and recommendations to United States District Judge D.P. Marshall Jr., recommending that motions to dismiss filed by defendants Marvin Evans Jr., Gaylon Lay, Gleenover Knight, and Karl P. Cherry, be granted in part and denied in part. The undersigned recommended the motions be granted to the extent that plaintiff Robert E. Howell, Sr.'s claims for monetary damages against Evans, Lay, Gleenover Knight, and Cherry, in their official capacity, be dismissed without prejudice, but be denied in all other respects. Doc. No. 40. Prior to Judge Marshall acting on the findings and recommendations, the parties consented to proceed before the undersigned pursuant to 28 U.S.C. § 636(c). Doc. No. 56. As a result of the consent of the parties, the December 16, 2016, findings and recommendations is hereby amended to be the memorandum and order of the undersigned.¹ The motions to dismiss filed by Evans, Lay, Gleenover Knight, and Cherry, are GRANTED to the extent that Howell's claims for monetary damages against Evans, Lay, and Cherry, in their official capacity, are dismissed with prejudice, but

¹Howell's December 27, 2016, objection does not provide any basis for modifying the original decision, and in fact appears to agree official capacity claims for monetary damages should be dismissed. Doc. Nos. 45 & 47.

the motions are DENIED in all other respects.² Doc. Nos. 19 & 30. The Clerk of the Court is directed to administratively terminate the findings and recommendations entered on December 16, 2016. Doc. No. 40.

IT IS SO ORDERED this 24th day of February, 2017.



UNITED STATES MAGISTRATE JUDGE

²Judge Marshall has already dismissed all claims against Glenover Knight. Doc. No. 44.