

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

DEVERICK SCOTT
ADC #131042

PLAINTIFF

v.

No. 5:16-cv-65-DPM

WENDY KELLEY,* Director, Arkansas
Department of Correction, *et al.*

DEFENDANTS

ORDER

1. On *de novo* review, the Court adopts the recommendation, *No 6*, as modified and overrules most of Scott's objections, *No 9*. FED. R. CIV. P. 72(b)(3).

2. The modifications: First, neither the Tucker Unit nor the Arkansas Department of Correction is a "person" who can be sued under § 1983. *E.g.*, *Will v. Michigan Department of State Police*, 491 U.S. 58, 71 (1989). Scott's claims against the Unit and the Department are therefore dismissed with prejudice.

Second, Scott's claims against Major Williams aren't limited to claims about lost property. Scott also alleges that Major Williams is partly responsible for the ADC's policy on what property inmates in punitive

*The Court directs the Clerk to correct the spelling of Kelley's name on the docket.

segregation can have. *No 5 at 12 & 53*. Scott's objection is therefore sustained on this point. Major Williams stays in the case for now.

3. Scott's claims about lost or stolen property are dismissed without prejudice for failure to state a claim.

4. Scott's claims against Defendants Strout and Morris are dismissed without prejudice for failure to state a claim.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United State District Judge

20 April 2016