

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

**ORVIL D. LOFTIS,  
ADC #103901**

**PLAINTIFF**

v.

**Case No. 5:16-cv-00076-KGB-JTR**

**JEREMY EDWARDS,  
Correctional Officer,  
Delta Regional Unit, ADC, et al.**

**DEFENDANTS**

**ORDER**

The Court has reviewed the Recommended Disposition submitted by United States Magistrate Judge J. Thomas Ray (Dkt. No. 4). Plaintiff Orvil D. Loftis has filed objections (Dkt. No. 10). After careful review of the Recommended Disposition and the timely objections, as well as a *de novo* review of the record, the Court concludes that the Recommended Disposition should be, and hereby is, approved and adopted as this Court's findings in all respects (Dkt. No. 4).

It is therefore ordered that:

1. Mr. Loftis's 42 U.S.C. § 1983 claims are dismissed without prejudice, and his pendent negligence claim is dismissed with prejudice.
2. This dismissal constitutes a "strike," pursuant to 28 U.S.C. § 1915(g).
3. 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.
4. Because this Court adopts the Recommended Disposition to dismiss this case, the Court denies as moot Mr. Loftis's motion to amend and supplement to the motion to amend (Dkt. Nos. 8, 16). In the alternative, even if this Court were to consider Mr. Loftis's motion to amend and supplement to the motion to amend, the Court would deny the motion. The Court has carefully

reviewed Mr. Loftis's motion to amend, which includes his proposed amended complaint, and supplement to the motion to amend (Dkt. Nos. 8, 16). The Court would deny Mr. Loftis's motion to amend and supplement to the motion to amend as futile because the amendments he proposes do not cure the deficiencies in his complaint identified by Judge Ray and that are the basis of this Court's dismissal of his claims. *See Magee v. Trustees of Hamline Univ., Minn.*, 957 F.Supp.2d 1047 (D. Minn. 2013) (determining that an amendment is futile if it fails to create claims that would withstand a motion to dismiss for failure to state a claim upon which relief can be granted).

So ordered this 21st day of February, 2017.

A handwritten signature in black ink, reading "Kristine G. Baker". The signature is written in a cursive style and is positioned above a horizontal line.

Kristine G. Baker  
United States District Judge