

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

AUSTIN JAY BURNS, ADC #551922

PLAINTIFF

V.

No. 5:17CV00223 JLH/JTR

KEDRICK R. AVERY, et al.

DEFENDANTS

**ORDER**

The Court has reviewed the Recommendation submitted by United States Magistrate Judge J. Thomas Ray. No objections have been filed. After careful review, the Recommendation is approved and adopted in its entirety as this Court's findings in all respects.

IT IS THEREFORE ORDERED THAT:

1. Burns may proceed with his excessive force and inadequate nutrition claims against Avery, Budnik, and Starks in their individual capacities only.
2. The Clerk is directed to prepare a summons for Avery, Budnik, and Starks. The U.S. Marshal is directed to serve the complaint, amended complaint, and this Order on them through the ADC Compliance Division without prepayment of fees and costs or security therefor. If any of the defendants are no longer ADC employees, the ADC Compliance Division must file a **sealed** statement providing the unserved defendant's last known private mailing address.
3. All other claims raised in the Complaint and Amended Complaint are dismissed without prejudice.
4. It is certified, 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.

DATED this 5th day of December, 2017.

  
UNITED STATES DISTRICT JUDGE