

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

**RUSSELL BERGER,
ADC #115855**

PLAINTIFF

VS.

5:17-CV-00258-BRW-JTR

CLARK, Food Service Supervisor, Varner Unit, et al.

DEFENDANTS

ORDER

I have reviewed the Recommendation submitted by United States Magistrate Judge J. Thomas Ray and the objections.¹ After carefully considering these documents and making a *de novo* review of the record in this case, I approve and adopt the Recommendation as set out below:

Berger may proceed with his § 1983 and RLUIPA claims against Wendy Kelley in both her individual and official capacities. The Clerk is directed to prepare a summons for Kelley at the ADC Compliance Division.

The U.S. Marshal is directed to serve the summons, substituted complaint, and this Order on her without prepayment of fees and costs or security therefor.

All claims against Clark, Swopes, Treas, Reed, Evans, Cashion, Watson, Payne, and Does are dismissed without prejudice. The motion for temporary restraining order or a preliminary injunction (Doc. No. 8) is DENIED. I certify that an *in forma pauperis* appeal from this Order would not be taken in good faith.²

IT IS SO ORDERED this 9th day of January, 2018.

/s/ Billy Roy Wilson _____
UNITED STATES DISTRICT JUDGE

¹ Doc. Nos. 10.

² 28 U.S.C. § 1915(a)(3).