

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

**MARK HENDERSON  
ADC #78763**

**PLAINTIFF**

**v.**

**Case No. 5:17-cv-00300-KGB**

**JAMES GIBSON, Warden,  
Varner Unit, et al.**

**DEFENDANTS**

**ORDER**

Plaintiff Mark Henderson brings this action *pro se* pursuant to 42 U.S.C. § 1983. The Court has received Amended and Substituted Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe (Dkt. No. 16). Plaintiff Mark Henderson filed objections to the Amended and Substituted Proposed Findings and Recommendations (Dkt. No. 20). After a review of the Amended and Substituted Proposed Findings and Recommendations and Mr. Henderson's objections, as well as a *de novo* review of the record, the Court adopts the Amended and Substituted Proposed Findings and Recommendations in their entirety (Dkt. No. 16). The Court therefore orders that defendants James Gibson and Hoot Gipson be dismissed without prejudice as defendants from this action. The Court dismisses without prejudice Mr. Henderson's claims regarding the loss of his mp4 player.

Also before the Court are Proposed Findings and Recommendations submitted by Judge Volpe (Dkt. No. 35). No objections to the Proposed Findings and Recommendations have been filed, and the time for filing objections has passed. After review, this Court adopts the Proposed Findings and Recommendations in their entirety as this Court's findings in all respects (Dkt. No. 35). The Court therefore denies Mr. Henderson's motion for summary judgment or, in the alternative, for an evidentiary hearing (Dkt. No. 25).


Also before the Court are Proposed Findings and Recommendations submitted by Judge Volpe (Dkt. No. 50). Mr. Henderson filed objections to the Proposed Findings and Recommendations (Dkt. No. 51). After a review of the Proposed Findings and Recommendations and Mr. Henderson's objections, as well as a *de novo* review of the record, the Court adopts the Proposed Findings and Recommendations in their entirety (Dkt. No. 50). The Court grants defendants James Shipman and Jared Byers' motion for summary judgment is granted (Dkt. No. 41). The Court dismisses without prejudice Mr. Henderson's claims against Warden Shipman and Warden Byers for failure to exhaust administrative remedies.

For these reasons, the Court dismisses Mr. Henderson's cause of action. Judgment will be entered accordingly.

It is hereby ordered that:

1. The Court dismisses without prejudice defendants James Gibson and Hoot Gipson as defendants from this action;
2. The Court dismisses without prejudice Mr. Henderson's claims regarding the loss of his mp4 player;
3. The Court denies Mr. Henderson's motion for summary judgment or, in the alternative, for an evidentiary hearing (Dkt. No. 25);
4. The Court grants defendants James Shipman and Jared Byers' motion for summary judgment (Dkt. No. 41) and dismisses without prejudice Mr. Henderson's claims against defendants Mr. Shipman and Mr. Byers for failure to exhaust administrative remedies;
5. The Court dismisses in its entirety Mr. Henderson's cause of action; and
6. The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an *in forma pauperis* appeal from this Order would not be taken in good faith.

So ordered this 2nd day of August, 2018.

  
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Kristine G. Baker  
United States District Judge