

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

**DANIEL HURLBUT**

**PLAINTIFF**

**v.**

**Case No. 5:19-cv-00070-KGB**

**WILLIAM STRAUGHN, et al.**

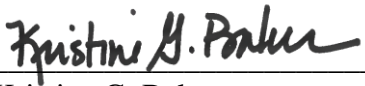
**DEFENDANTS**

**ORDER**

Before the Court are the Proposed Findings and Recommendations submitted by United States Magistrate Judge Jerome T. Kearney on January 7, 2020 (Dkt. No. 118). Judge Kearney recommends that plaintiff Daniel Hurlbut's claims be dismissed with prejudice. No objections have been filed, and the deadline for filing objections has since passed. After careful consideration, the Court agrees with Judge Kearney that Mr. Hurlbut's claims should be dismissed. However, the dismissal should be without prejudice. *See Gutierrez v. Gunderson*, No. CIV.04-2627(JRTJSM), 2008 WL 170009, at \*2 (D. Minn. Jan. 16, 2008) (dismissing case based on the failure to file a timely motion for substitution pursuant to Rule 25(a), but noting that dismissal should be without prejudice because, among other things, it did not involve an adjudication on the merits).

Accordingly, the Court adopts the Proposed Findings and Recommendations as this Court's findings of fact and conclusions of law, except that the dismissal of Mr. Hurlbut's claims will be without prejudice (Dkt. No. 118). The Court dismisses without prejudice Mr. Hurlbut's complaint and amended complaint (Dkt. Nos. 2, 6). Further, the Court denies as moot the March 11, 2019, May 1, 2019, and July 10, 2019, Proposed Findings and Recommendations (Dkt. Nos. 7, 36, 79). Finally, the Court denies as moot all pending motions in this matter (Dkt. Nos. 10, 24, 50, 62, 92).

It is so ordered this 9th day of March, 2020.

A handwritten signature in black ink, reading "Kristine G. Baker". The signature is written in a cursive style with a prominent initial "K".

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Kristine G. Baker  
United States District Judge