

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

TAMMY CHRISTINE HANSON

PLAINTIFF

v.

Civil No. 10-3022

BAXTER COUNTY, ARKANSAS;
SHERIFF JOHN MONTGOMERY;
CHIEF DEPUTY JEFF LEWIS;
LIEUTENANT RANDALL WEAVER;
SARGENT EDWARD ELLIOTT;
CORPORAL LINDA HENRY;
DR. JOSEPH TULLIS; DEPUTY WILTON
"CHIP" NORRIS; JAILER HELEN FENWICK;
JAILER TONY BECK; JAILER WILLIAM
ALTRAZAN; JAILER HEATHER EASTER;
JAILER GARNETT McMAHON; JAILER
SHERRY LEWIS; JAILER PATRICK GAULT;
JAILER JAMES TUDOR; JAILER SONYA OLNAY;
and JAILER TONY BECK

DEFENDANTS

ORDER

NOW on this 26th day of September 2011, comes on for consideration the Report and Recommendation (R&R) of the Magistrate Judge (document #59), filed on September 2, 2011, and the Objections of Joe Mitchell Tullis, M.D., to the Report and Recommendation of the Magistrate Judge (document #60), filed on September 16, 2011. The Court, being well and sufficiently advised, finds and orders as follows with respect thereto:

1. The plaintiff filed this civil rights action under the provisions of 42 U.S.C. § 1981 and 42 U.S.C. § 1983, alleging that her constitutionally protected rights were violated in the following ways:

(a) that she was denied adequate medical treatment;

(b) that she was subjected to unconstitutional conditions of confinement;

(c) that she was not permitted to exercise her Freedom of Religion; and

(d) that Sheriff Montgomery failed to properly train or supervise the employees of the Baxter County Detention Center.

2. Motions for summary judgment have been filed by separate defendant, Dr. Joe Mitchell Tullis (document #43), and on behalf of all the Baxter County Defendants (document #46). These motions were referred to the Magistrate Judge for evaluation and for an R&R.

3. In his R&R filed September 2, 2011 (document #59), U.S. Magistrate Judge James R. Marschewski, recommends that the motion for summary judgment filed by Dr. Tullis (document #43) be granted in part and denied in part, as follows:

- * that the Tullis motion be granted with respect to the discrimination and Equal Protection claims; and,

- * that the motion be denied with respect to the medical care claim.

4. Judge Marschewski's R&R also recommends that the motion for summary judgment on behalf of all the Benton County Defendants (document #46) be granted in part and denied in part as follows:

- * that the Benton County motion be granted with respect to the discrimination, Equal Protection, and Freedom of Religion claims; and,

- * that the motion be denied with respect to the medical care claim, the unconstitutional conditions of confinement claims, and

the right to privacy claims.

5. Finally, the R&R recommends that all claims against the following defendants be dismissed:

- * Chief Deputy Jeff Louis
- * Sergeant Edward Elliott
- * Corporal Linda Henry
- * Jailer Heather Easter
- * Jailer Sherry Lewis
- * Jailer Patrick Gault
- * Jailer James Tudor, and
- * Jailer Sonya Olnay.

6. Dr. Tullis has filed a timely objection to the R&R (document #60) in which he argues that plaintiff's medical care claim against him should be dismissed since, considering his limited responsibilities as medical care coordinator for the Baxter County Jail, there is no evidence that he deliberately disregarded plaintiff's serious medical needs. Dr. Tullis further argues that plaintiff's disagreement with his medical judgment does not serve an adequate legal basis for her claim of a constitutional violation.

7. After review of the matter, the Court finds that Tullis' objections offer nothing either in law or fact which would warrant rejection of the R&R. Specifically, the Court agrees with the Magistrate Judge's view that "[u]nder the circumstances, Hanson's claims against Dr. Tullis amount to more than a disagreement with her course of medical treatment." The objections of Dr. Tullis (document #60) will, therefore, be overruled and the R&R will be

adopted *in toto*.

IT IS THEREFORE ORDERED

* that the objections of Dr. Tullis (document #60) to the **Report And Recommendation** of the Magistrate Judge should be, and they hereby are, **overruled**; and

* that the said **Report and Recommendation** of the Magistrate Judge should be, and it hereby is, **adopted in toto**.

IT IS FURTHER ORDERED that the motion for summary judgment filed by Dr. Tullis (document #43) is **granted in part and denied in part** as follows:

* the **motion is granted with respect to the discrimination and Equal Protection claims against Tullis**; and,

* **denied with respect to the medical care claim against Tullis**.

IT IS ALSO ORDERED that the motion for summary judgment on behalf of all the Benton County Defendants (document #46) is **granted in part and denied in part** as follows:

* the **motion is granted with respect to the discrimination, Equal Protection, and Freedom of Religion claims**; and,

* **denied with respect to the medical care claim, the unconstitutional conditions of confinement claims, and the right to privacy claims**.

IT IS FINALLY ORDERED that **all claims against the following defendants are dismissed**:

- * Chief Deputy Jeff Louis
- * Sergeant Edward Elliott
- * Corporal Linda Henry
- * Jailer Heather Easter
- * Jailer Sherry Lewis
- * Jailer Patrick Gault
- * Jailer James Tudor, and
- * Jailer Sonya Olnay.

IT IS SO ORDERED.

 /s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE