

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

TRACY BERNARD WILLIAMS

PLAINTIFF

VS.

CASE NO. 4:10-CV-04085

Lead Case

TRACEY SMITH; and SONYA
SMITH

DEFENDANTS

TRACY BERNARD WILLIAMS

PLAINTIFF

VS.

CASE NO. 4:10-CV-04194

Member Case

OFFICER ADAMS; OFFICER
WILKERSON; SGT. WELCH;
COPR. LAFAYETTE; WARDEN
GARY TURNER; and NURSE
WILLIAMS

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed August 14, 2012 by the Honorable James R. Marschewski, Chief United States Magistrate Judge for the Western District of Arkansas. (ECF No. 70). Judge Marschewski recommends granting in part and denying in part Separate Defendants' Motions for Summary Judgment. (ECF Nos. 57 and 60). The parties have not filed objections to the Report and Recommendation, and the time to object has passed. *See* 28 U.S.C. § 636(b)(1). Therefore, the Court adopts the Report and Recommendation *in toto*.

Separate Defendant Nurse William's Motion for Summary Judgment (ECF No. 57) is **GRANTED in part** and **DENIED in part**. Specifically, the Motion (ECF No. 57) should be granted with respect to: (1) all official capacity claims against Nurse Williams; (2) Plaintiff's

retaliation claim regarding denial of medical care; and (3) Plaintiff's retaliation claim regarding denial of injury report. This leaves for later resolution the individual capacity claims against Nurse Williams regarding retaliation: (1) by enticing inmates to attack Plaintiff; and (2) locking Plaintiff down in the "Super-Max." Separate Defendants' Motion for Summary Judgement (ECF No. 60) is **GRANTED in part** and **DENIED in part**. Specifically, the Motion (ECF No. 60) should be granted with respect to: (1) all official capacity claims against all Separate Defendants; (2) all individual claims against Corporal Kelli Lafayette, and Corporal Lafayette should be dismissed; (3) all individual capacity claims of failure to protect against all Separate Defendants; (4) all individual capacity claims against Officer Sonya Smith, and Officer Sonya Smith should be dismissed; (5) all individual capacity claims of delay and denial of medical care against all Separate Defendants; and (6) all individual capacity claims regarding legal mail against all Separate Defendants. This leaves for latter resolution the individual capacity claims of (1) retaliation against Warden Gary Turner; and (2) excessive force against Corporal Tracey Smith.

IT IS SO ORDERED, this 4th day of September, 2012.

/s/ Susan O. Hickey
Hon. Susan O. Hickey
United States District Judge