

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

JAMES MACK

PLAINTIFF

vs.

Civil No. 4:10-cv-04129

SGT. JOHNNY WELSH;
CPL. TRACEY SMITH; and
OFFICER RACHEL JONES

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed October 25, 2012 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 42). Judge Bryant held a hearing on Plaintiff's excessive force claims on October 4, 2012. (ECF No. 41). Based on the testimony at that hearing, Judge Bryant recommends that judgment be entered in Defendant's favor and that Plaintiff's Complaint (ECF No. 1) be dismissed. The parties have not filed objections to the Report and Recommendation, and the time for doing so has passed. See 28 U.S.C. § 636(b)(1). After reviewing the record *de novo*, the Court finds that Judge Bryant's Report and Recommendation should be adopted in its entirety.

Plaintiff claims that he was subjected to excessive force when he was tased for violating a ban on wearing certain "do-rags" while being detained at the Miller County Detention Center. Judge Bryant found that Defendants' actions were objectively reasonable under the circumstances, and that the force used was justified under the Fourteenth Amendment. The Court agrees. After Plaintiff was notified to remove his banned do-rag, he defied a direct order, resisted restraints, and posed a security risk in an open pod with approximately thirty-three other inmates.

Such circumstances warranted the force used against him. *See Jasper v. Thalacker*, 999 F.2d 353 (8th Cir. 1993).

Accordingly, the Court hereby adopts Judge Bryant's Report and Recommendation, and Plaintiff's Complaint (ECF No. 1) is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED, this 28th day of November, 2012.

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