

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

MICHAEL TODD

PLAINTIFF

VS.

Civil No. 4:13-cv-4044

HEATH ROSS; SERGEANT ZUMWALT;
and CAPTAIN GODBOLT

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed August 5, 2014, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 22). Judge Bryant recommends that Defendants' Motion for Judgment on the Pleadings (ECF No. 19) be granted and that Plaintiff's due process claims be dismissed. Plaintiff has filed objections to the Report and Recommendation. (ECF No. 23). After reviewing the record *de novo*, the Court adopts Judge Bryant's Report and Recommendation.

Plaintiff makes objections on grounds that Judge Bryant improperly construed his allegations as a due process claim rather than a claim for cruel and unusual punishment. Judge Bryant, Defendants, and Plaintiff himself have consistently construed the allegations at issue as a due process claim. In Plaintiff's response to the Motion for Judgment on the Pleadings (ECF No. 22) his arguments were centered on due process law. He included no argument regarding a claim for cruel and unusual punishment. The Court will not consider arguments that were not before the Magistrate for review. Accordingly, the Court overrules Plaintiff's objections and adopts Judge Bryant's Report and Recommendation. For the reasons stated herein and above, as well as those contained in the Report and Recommendation, Defendants Motion for Judgment on the Pleadings (ECF No. 19) should be and hereby is **GRANTED**. Plaintiff's due process claim is **DISMISSED WITH PREJUDICE**. Because this disposes of Plaintiff's entire case, this action should also be

DISMISSED WITH PREJUDICE.

IT IS SO ORDERED, this 14th day of August, 2014.

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