

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

RAYMOND SETZKE

PLAINTIFF

v.

No. 07-5186

LARRY NORRIS, Director, Arkansas  
Department of Correction, et al.

DEFENDANTS

**ORDER**

Currently before the Court is a **Report and Recommendation (Doc. 227)** issued by Magistrate Judge James R. Marschewski, recommending granting plaintiff's **Motion to Dismiss (Doc. 202)** certain defendants in this action. Judge Marschewski recommended that the dismissal be with prejudice. Plaintiff has filed **Objections (Doc. 239)** to the Report and Recommendation, stating that he intended to voluntarily dismiss these defendants without prejudice. Defense counsel has advised that she has no objection to a dismissal without prejudice.

Accordingly, the **Report and Recommendation** is **adopted** to the extent that plaintiff's **Motion to Dismiss (Doc. 202)** is hereby **GRANTED** and plaintiff's claims against the following defendants are **DISMISSED WITHOUT PREJUDICE**: Sheriff Keith Ferguson, Deputy Free, Lieutenant Carter, Deputy Jensen, and Captain Petray.

IT IS SO ORDERED this 28<sup>th</sup> day of May, 2009.

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