

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

MICHAEL P. HINSON

PLAINTIFF

v.

Civil No. 08-5072

SHERIFF KEITH FERGUSON,
Benton County, Arkansas,
MAJOR GENE DRAKE, Benton County
Detention Center, CAPTAIN
HUNTER PETRAY, Benton County
Detention Center, DEPUTY
ZACHARY JOHNSTON; DR. HUSKINS;
and NURSE SMITH

DEFENDANTS

O R D E R

Now on this 28th day of August, 2009, comes on for consideration the **Report and Recommendation of the Magistrate Judge, Hon. James R. Marschewski** (document #38, filed August 4, 2009), in this matter, to which no objections have been filed, and the Court, having carefully reviewed said Report and Recommendation, finds that it is sound in all respects, and that it should be adopted *in toto*.

IT IS THEREFORE ORDERED that the **Magistrate Judge's Report and Recommendation is adopted *in toto***.

IT IS FURTHER ORDERED that, for the reasons stated in the Magistrate Judge's Report and Recommendation, defendants' motion for summary judgment (Doc. 29) is hereby **granted in part and denied in part**. It is granted with respect to Hinson's excessive force claim and his unconstitutional conditions of confinement claim which would dismiss all claims against Deputy Zachary Johnson. All claims against Sheriff Keith Ferguson, Major Gene Drake and Captain Hunter Petray are also dismissed. The motion is denied with respect to Hinson's denial of adequate dental care claim against Dr. Huskins and Nurse Smith.

IT IS SO ORDERED.

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