

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

DENVER WAYNE PENNINGTON

PLAINTIFF

v.

Civil No. 12-5016

SHERIFF TIM HELDER, et al.

DEFENDANTS

O R D E R

Now on this 5th day of April 2013, comes on for consideration the **Report and Recommendation of the Magistrate Judge** (document #37) and plaintiff's objection thereto. The Court has reviewed the Report and Recommendation and, being well and sufficiently advised, finds and orders as follows:

1. In this civil rights action, plaintiff Denver Wayne Pennington alleges various violations by defendants while he was incarcerated at the Washington County Detention Center. After a hearing on defendants' motion for summary judgment, Magistrate Judge Erin L. Setser recommended that the motion be granted and the case dismissed.

2. For his objection to the Report and Recommendation, Mr. Pennington argues that he was denied the opportunity to present evidence on his own behalf and asks that the motion for summary judgment be denied.

3. As discussed in the Report and Recommendation, Mr. Pennington presented evidence at the summary judgment hearing in the form of his own testimony and the testimony of another inmate.

Although he contends he should have been allowed to introduce exhibits, as well, Mr. Pennington does not describe what those exhibits entailed or how they would have supported his claims. Thus, Mr. Pennington has failed to state any error of law or fact to refute the Report and Recommendation.

**IT IS THEREFORE ORDERED** that the **Report and Recommendation of the Magistrate Judge** (document #37) is hereby **adopted in toto** and that plaintiff's objection to the Report and Recommendation is **overruled**.

**IT IS FURTHER ORDERED** that, for the reasons stated in the Report and Recommendation, defendants' **Corrected Motion for Summary Judgment** (document #29) is hereby **granted**, and this case is **dismissed**.

**IT IS SO ORDERED.**

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