

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

MONTIE L. SPURGEON, JR.

PLAINTIFF

v.

Case No. 5:13-CV-05289

SGT. T. MUGGEY; CPL. SORREL; and  
CPL. MULVANEY

DEFENDANTS

**ORDER**

The Court has received proposed findings and recommendations (Doc. 50) from United States Magistrate Judge James R. Marschewski. There have been no objections. After careful review, the Court concludes that the findings and recommendations should be, and hereby are, approved and adopted as this Court's findings in all respects.

Accordingly, IT IS ORDERED that Defendants' motion for summary judgment (Doc. 46) is GRANTED IN PART and DENIED IN PART.

The motion is GRANTED insofar as all claims stemming from the November 2013 incidents involving fellow inmate Randall and all claims against Corporal Mulvaney are DISMISSED WITH PREJUDICE.

The motion is DENIED insofar as Plaintiff's claims against Corporal Sorrel and Sergeant Muggey for failure to protect stemming from the January 2014 incident with fellow inmate Phillips remain pending. This case will be set for trial on these claims by separate order.

Plaintiff previously filed a motion for the Court to appoint him counsel in this matter, which motion was denied by order entered February 24, 2014 (Doc. 21). The issues in this case have been narrowed, and the case is ready to proceed to trial. Trial of this matter will involve legal, factual, and procedural complexities that might weigh in favor of appointing counsel at this juncture. If

Plaintiff still desires appointed counsel, he is invited to renew his motion for appointed counsel.

IT IS SO ORDERED this 16th day of October, 2015

*/s/ P. K. Holmes, III*

P.K. HOLMES, III  
CHIEF U.S. DISTRICT JUDGE