

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

ELTON BENNIE SMITH, JR.
ADC #144885

PLAINTIFF

v.

Case No. 11-6036

CORRECTIONAL MEDICAL
SERVICES, INC., et al.

DEFENDANTS

ORDER

Now on this 28th day of September 2012, there comes on for consideration the report and recommendation filed herein on August 24, 2012, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. 32). Also before the Court are Defendants' objections (doc. 33) to the report and recommendation.

The court has reviewed this case *de novo* and, being well and sufficiently advised, finds as follows: The report and recommendation is proper and should be and hereby is adopted in its entirety. Accordingly, Defendant's Motion to Dismiss (doc. 8) is GRANTED IN PART and DENIED IN PART. Plaintiff's following claims are dismissed: (1) all official capacity claims asserted against Warden W.D. Reed and Deputy Director Wendy Kelley. The U.S. District Clerk is directed to note that Plaintiff is asserting only individual capacity claims against these defendants. In all other respects, the motion is DENIED.

IT IS SO ORDERED.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge