

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

MARK R. DAVIS

PLAINTIFF

vs.

CIVIL NO. 6:12-CV-06070

DR.DEBRA CLYDE, *et al.*

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed November 8, 2012 by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 5). Judge Marschewski has screened Plaintiff's Complaint (ECF No. 1) pursuant to 28 U.S.C. § 1915A and recommends dismissal of certain claims while retaining others. Judge Marschewski also recommends that Plaintiff be directed to file an amended complaint for the remaining claims. The parties have not filed objections to Judge Marschewski's Report, and the time for doing so has passed. *See* 28 U.S.C. § 636(b)(1). After reviewing the record *de novo*, the Court finds that Judge Marschewski's Report and Recommendation should be adopted in its entirety.

Plaintiff alleges claims against numerous defendants related to his confinement in four separate units within the Arkansas Department of Corrections: the East Arkansas Regional Unit ("EARU"), the North Central Unit ("NCU"), the Tucker Unit, and the Quachita Regional Unit ("ORU"). Three of these units—EARU, NCU and Tucker—are located in the Eastern District of Arkansas, while the fourth, ORU, is located in the Western District of Arkansas. Pursuant to 28 U.S.C. § 1391(b), venue is improper as to the claims that arose in the Eastern District of

Arkansas. The Court agrees with Judge Marschewski that, under 28 U.S.C. § 1406(a), the interest of justice would best be served by dismissing the claims related to the EARU, NCU, and Tucker Unit without prejudice to allow Plaintiff to bring them in the proper venue.

Accordingly, the Court hereby adopts Judge Marschewski's Report and Recommendation, and Plaintiff's claims that arose during his detention at the EARU, NCU, and Tucker Unit are **DISMISSED WITHOUT PREJUDICE**. Plaintiff's claims that arose during his detention at ORU will remain. It is unclear from Plaintiff's Complaint, however, which events relate specifically to his detention at ORU. Therefore, Plaintiff is directed to file an amended complaint asserting only those claims that relate to ORU. Any allegations, facts, or claims related to ORU that Plaintiff intends to remain a part of this lawsuit should be included in the amended complaint.

IT IS SO ORDERED, this 28th day of November, 2012.

/s/ Susan O. Hickey
Hon. Susan O. Hickey
United States District Judge