

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

JAMES CHITTUM

PLAINTIFF

V.

CASE NO. 6:15-CV-06044

DEPUTY CAIN, *et al.*

DEFENDANTS

**ORDER**

Before the Court is the Report and Recommendation filed October 19, 2016, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 18). Judge Bryant recommends that Plaintiff's claims against all Defendants except Defendant Watson, Defendant Cain, and Defendant Clark County be dismissed without prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i),(ii), and (iii) and 1915A(b). Judge Bryant further recommends that Plaintiff's claims of First Amendment retaliation against Defendants Cain and Watson, as well as Plaintiff's excessive force claim against Defendant Cain, remain for further consideration. Likewise, Judge Bryant recommends that Plaintiff's claim for injury due to black mold exposure be allowed to proceed against Defendant Clark County.

The parties have not filed objections to the Report and Recommendation even though Plaintiff's Motion for Extension of Time to File Objections (ECF No. 26) was granted. The time to object has now passed. *See* 28 U.S.C. § 636(b)(1). Therefore, the Court adopts the Report and Recommendation *in toto*. Plaintiff's claims against all Defendants except Defendants Watson, Cain, and Clark County are hereby **DISMISSED WITHOUT PREJUDICE**. Plaintiff's claims against (1) Defendant Watson for First Amendment retaliation; (2) Defendant Cain for First

Amendment retaliation and excessive force; and (3) Defendant Clark County for unconstitutional conditions of confinement remain for further consideration.

**IT IS SO ORDERED**, this 20th day of January, 2017.

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