

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

CARLOS MONTANA WILLIAMSON

PLAINTIFF

V.

CIVIL NO. 6:18-cv-6041-RTD-BAB

MARK A. WALTERS (Correctional Officer
Arkansas Department of Correction) and
GOLDEN DANIEL WAYNE (Disciplinary
Hearing Judge)

DEFENDANTS

ORDER

The Court has received a report and recommendation (ECF No. 21) from United States Magistrate Judge Barry A. Bryant. Plaintiff has filed objections. Plaintiff provisionally filed the instant civil rights action pursuant to 42 U.S.C. § 1983 against Defendants Walters and Wayne in their individual capacities. (ECF No. 12.) Plaintiff alleges his federal constitutional right to be free from the use of excessive force was violated during an altercation with Defendant Walters in the prison day clinic. (*Id.* at 4-10.) Plaintiff also challenges the constitutionality of the related disciplinary conviction that cost him thirty (30) days of punitive isolation and the loss of one year of good-time credit. (*Id.*) Plaintiff seeks damages and termination of the disciplinary conviction in his ADC records and an internal investigation of the allegations made in his complaint. (*Id.* at 14.) The Magistrate recommends that Plaintiff's personal capacity claim against Defendant Walters for the use of excessive force remain with the Court for further consideration. Citing *Heck v. Humphrey*, 512 U.S. 477 (1994), the Magistrate recommends that Plaintiff's other claims be dismissed without prejudice because Plaintiff has not alleged that his disciplinary conviction has been reversed, expunged, declared invalid, or called into question by a federal court.

The Court has conducted a de novo review of those portions of the report and recommendation to which Plaintiff has objected. 28 U.S.C. 636(b)(1). Plaintiff's objections offer neither law nor fact requiring departure from the Magistrate's findings. The report and recommendation is otherwise proper, contains no clear error, and is ADOPTED IN ITS ENTIRETY.

IT IS THEREFORE ORDERED that Plaintiff's personal capacity claim against Defendant Walters for the use of excessive force shall remain with the Court for further consideration. IT IS FURTHER ORDERED that Plaintiff's other claims against Defendants Walters and Wayne are DISMISSED WITHOUT PREJUDICE.

SO ORDERED this 1st day of March 2019.

/s/Robert T. Dawson

ROBERT T. DAWSON
SENIOR U.S. DISTRICT JUDGE