

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

RANDALL ALAN BAILEY

PLAINTIFF

v.

Case No. 6:23-cv-6064

DIRECTOR DEXTER PAYNE;  
DEPUTY DIRECTOR ANDREA F.  
CULCLAGER; SUPERINTENDENT BYERS;  
DEPUTY WARDEN GRIFFIN; WELLPATH  
HEALTH SERVICES; and DR. DAVIS

DEFENDANTS

**ORDER**

Before the Court is a Report and Recommendation issued by the Honorable Christy D. Comstock, United States Magistrate Judge for the Western District of Arkansas. ECF No. 19. Judge Comstock recommends that the Motion to Dismiss (ECF No. 11) by Defendants Dexter Payne, Dep. Director Andrea F. Culclager, Superintendent Byers, and Deputy Warden Griffin (“ADC Defendants”) be granted in part and denied in part. Specifically, Judge Comstock recommends that: 1) the motion to dismiss be granted with respect to Plaintiff’s individual capacity claims against the ADC Defendants, 2) the motion to dismiss be granted with respect to Plaintiff’s official capacity claims against ADC Defendants for monetary damages, 3) the motion to dismiss be denied in all other respects, and 4) the ADC Defendants’ request to impose a strike against Plaintiff pursuant to 28 U.S.C. § 1915(g) be denied.

No party has filed an objection to the Report and Recommendation, and the time to do so has passed.<sup>1</sup> *See* 28 U.S.C. § 636(b)(1). Upon review, finding that there is no clear error on the face of the record and that Judge Comstock’s reasoning is sound, the Court adopts the Report and

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<sup>1</sup> Plaintiff’s response simply states that he acknowledges Judge Comstock’s findings and requests an update of what will happen with Defendants Wellpath Health Services and Dr. Davis. ECF No. 21.

Recommendation (ECF No. 19) *in toto*. The ADC Defendants' Motion to Dismiss (ECF No. 11) is hereby **GRANTED in PART** and **DENIED in PART**. Plaintiff's individual capacity claims against Defendants Dexter Payne, Dep. Director Andrea F. Culclager, Superintendent Byers, and Deputy Warden Griffin are hereby **DISMISSED WITHOUT PREJUDICE**. Plaintiff's official capacity claims for monetary damages against Defendants Dexter Payne, Dep. Director Andrea F. Culclager, Superintendent Byers, and Deputy Warden Griffin are hereby **DISMISSED WITHOUT PREJUDICE**. Plaintiff's official capacity claims seeking non-monetary relief against the ADC Defendants may proceed. The Court declines to impose a strike against Plaintiff pursuant to 28 U.S.C. § 1915(g).

**IT IS SO ORDERED**, this 10th day of October, 2023.

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