

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION

MARK STINSON

Reg. #29908-076

PLAINTIFF

v.

No. 2:21-cv-111-DPM

JOHN P. YATES, Warden;
BLAIR, Camp Unit Manager, B.O.P.;
RANDLE, Lieutenant, B.O.P.;
RENDON, Camp Counselor, B.O.P.; and
B. CRAWFORD, Officer, B.O.P.

DEFENDANTS

ORDER

1. Motions, *Doc. 7 & 8*, denied as moot. Magistrate Judge Kearney already granted Stinson leave to proceed *in forma pauperis*, *Doc. 6*; and this case is already styled as Stinson requests in his motion to amend. *Doc. 8*.

2. On *de novo* review, the Court adopts Magistrate Judge Kearney's recommendation, *Doc. 5*, and overrules Stinson's objections, *Doc. 9*. FED. R. CIV. P. 72(b)(3). Although the United States Court of Appeals for the Eighth Circuit hasn't addressed the issue, several Courts have declined to extend *Bivens* to First Amendment retaliation claims. *Butler v. S. Porter*, 999 F.3d 287, 295 (5th Cir. 2021) (collecting cases). This Court agrees. Further, Stinson's claim about his time in the SHU doesn't show the type of "atypical and significant hardship"

required to state a due process claim. Stinson's complaint will therefore be dismissed without prejudice for failure to state a claim. The Court recommends that this dismissal count as a "strike" for purposes of 28 U.S.C. § 1915(g). An *in forma pauperis* appeal from this Order and accompanying Judgment would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

23 September 2021