
Submitted: March 30, 2009
Filed: April 6, 2009

Before BYE, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Arkansas inmate Richard Alan Davis appeals the district court's¹ dismissal of his 42 U.S.C. § 1983 action following an evidentiary hearing. Because Davis requested a jury trial and he alone testified at the hearing, the district court properly applied the standards announced in Johnson v. Bi-State Justice Ctr., 12 F.3d 133 (8th Cir. 1993); and upon de novo review, see Johnson v. Cowell Steel Structures, Inc., 991 F.2d 474, 478 (8th Cir. 1993), we find no error in the court's conclusion that the case was not submissible to a jury. Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable H. David Young, United States Magistrate Judge for the Eastern District of Arkansas, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).