

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

THOMAS JOHNSON,	)	
	)	
PLAINTIFF,	)	
	)	
v.	)	CASE NO. 2:04-cv-117-MEF
	)	WO
CITY OF CLANTON, et al.,	)	
	)	
DEFENDANTS.	)	

**MEMORANDUM OPINION AND ORDER**

In February of 2004, Plaintiff Thomas Johnson brought this suit against the Chilton County Commission and numerous other defendants. Plaintiff’s allegations against all defendants arise out of an alleged incident between Plaintiff and certain police officers on May 25, 2002, outside a bar in Clanton, Alabama. It is alleged that two law enforcement officers for the City of Clanton improperly arrested Plaintiff and used excessive force against him to effectuate the arrest. It is further alleged that these officers then transported Plaintiff to the Chilton County Jail where he was further physically abused by law enforcement, including Sheriff’s Deputies for the Chilton County Sheriff’s Department. Some of the law enforcement officers named as defendants in this action are alleged to have been acting as Sheriff’s Deputies for the Chilton County Sheriff’s Department under the direction of the Chilton County Commission at the time of the incident.

This cause is presently before the Court on the Motion for Judgment on the Pleadings (Doc. # 73) filed by Defendant Chilton County Commission on March 10, 2005. Upon receipt of this motion, the Court directed Plaintiff to show cause why the motion should not

be granted. Thereafter, Plaintiff filed a document styled as a “Response to Motion for Judgment on the Pleadings and Motion to Dismiss the Chilton County Commission” (Doc. # 75). Rather than attempting to refute any of the legal arguments set forth in the motion or to in any way oppose the motion for judgment on the pleadings, Plaintiffs asks this Court to dismiss the Chilton County Commission as a defendant pursuant to Federal Rule of Civil Procedure 41. Plaintiff asks that all claims against the Chilton County Commission be dismissed without prejudice.

The Court notes that no party has objected or responded to Plaintiff’s request for dismissal without prejudice. Moreover, the Court observes that Chilton County Commission has filed neither an answer nor a motion for summary judgment. Accordingly, the Court finds that this action is due to be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1). It is hereby ORDERED as follows:

(1) The Motion to Dismiss the Chilton County Commission (Doc. # 75) filed by Plaintiff is GRANTED.

(2) All claims in this action against the Chilton County Commission are hereby DISMISSED WITHOUT PREJUDICE and the Clerk of the Court is DIRECTED to terminate the Chilton County Commission as a party to this action.

(3) The Motion for Judgment on the Pleadings (Doc. # 73) filed by the Chilton County Commission is DENIED as MOOT.

DONE this the 26<sup>th</sup> day of May, 2005.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE