

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

BRADY LEE HORTON,
ADC #122529

PLAINTIFF

v.

1:10-cv-00061-DPM-JTK

JASON DAY, et al.

DEFENDANTS

ORDER

By Order dated August 24, 2010 (Doc. No. 3), this Court granted Plaintiff’s application to proceed in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983. However, finding Plaintiff’s Complaint too vague and conclusory to enable the Court to determine whether it is frivolous, fails to state a claim, or states a legitimate claim, the Court directed Plaintiff to submit an Amended Complaint within 30 days. Plaintiff has now submitted an Amended Complaint (Doc. No. 6). Having reviewed the Original and Amended Complaints, and construing them together, it now appears to the Court that service is appropriate.

The Court notes that Plaintiff identified one Defendant as “John Doe, Officer, Boone County.” Since the identity of this Defendant is not known, the Clerk cannot issue summons, and the Marshal is unable to serve an unknown person. After the complaint is filed, Plaintiff will be allowed to engage in limited discovery consistent with the Federal Rules of Civil Procedure, if necessary, to try to determine the identity of the John Doe. Once Plaintiff is able to identify this Defendant by name and address, the Court should be notified so that service can be ordered.

Accordingly,

IT IS, THEREFORE, ORDERED that service is appropriate for Defendants Jason Day, Dewayne Pierce, and Derek Harmon. The Clerk of the Court shall prepare summons for the

Defendants and the United States Marshal is hereby directed to serve a copy of the original (Doc. No. 2) and Amended Complaints (Doc. No. 6) and summons on defendants Day, Pierce, and Harmon, without prepayment of fees and costs or security therefore.

IT IS SO ORDERED this 1st day of October, 2010.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE