

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

**WESLEY HESTER
ADC #129029**

PLAINTIFF

VS.

CASE NO. 2:08CV00123 JMM

LARRY NORRIS, ET AL.

DEFENDANTS

AMENDED ORDER

On May 8, 2009, Judgment was entered in favor of Plaintiff and against Defendant in the amount of \$10.00 for damages and \$350.00 for costs in the above styled case.

On June 24, 2009, Plaintiff filed an Application for a Writ of Execution which was granted on June 26, 2009 and Plaintiff was mailed a Writ of Execution form. On July 16, 2009, the Clerk of the Court was directed to complete the Writ of Execution form and to deliver the writ to the United States Marshal for service.

On September 10, 2009, the Writ of Execution was returned executed as to Defendant and stated that the Marshal had made unsuccessful attempts to serve Defendant by mail and telephone.

On August 30, 2010, Plaintiff filed a Motion for Re-Issuance of Writ which was granted. On September 17, 2010, the Clerk of the Court prepared the writ and delivered it to the Marshal for execution. The writ was returned executed on May 16, 2011, with the notation that Plaintiff was unemployed and without any money. There was a notation that Defendant was expecting an income tax refund.

Plaintiff subsequently filed a Writ of Garnishment but failed to identify a third party who controls property of the defendant resulting in the denial without prejudice of that motion on October 27, 2011.

Plaintiff now seeks to amend the May 8, 2009 Judgment to include interest. Under Federal Rule of Civil Procedure 59, any motion to alter a judgment must be filed no later than 28 days after the entry of the judgment. Judgment was entered in this case on May 8, 2009. Plaintiff's motion is dismissed as untimely (#123).

IT IS SO ORDERED THIS 27 day of April, 2012.



James M. Moody
United States District Judge