

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

JERRY T. REINER, JR.

PLAINTIFF

V.

2:08CV00168 BSM/HDY

JHON COLLIER, Jail Administrator, Cross County
Jail; and HEATH SMITH, Jailer, Cross County Jail

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge Brian S. Miller. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Plaintiff filed this action, *pro se*, stating that he wanted to sue “the County” and the named Defendants for discrimination because he was not taken to court. Neither Plaintiff’s Complaint nor his Application to Proceed *In Forma Pauperis* were complete. Accordingly, in an Order dated October 14, 2008, the Court directed Plaintiff to submit either the statutory filing fee, or a completed *in forma pauperis* motion, and an Amended Complaint providing more specific facts in support of his claim. *See* docket entry #3.

This Order was mailed to Plaintiff at his last-known address, the Cross County Jail, and has not been returned to the Court as undelivered. More than thirty days have now passed and Plaintiff has failed to respond to the Court’s order or submit the requested documents. Under these

circumstances, the undersigned concludes that Plaintiff's Complaint should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2).¹

IT IS THEREFORE RECOMMENDED that Plaintiff's Complaint (docket entry #2) be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2).

DATED this 17 day of November, 2008.



UNITED STATES MAGISTRATE JUDGE

¹ Local Rule 5.5(c)(2) provides that: "It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure."