

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

**BONDARY MCCALL,
Reg. # 43827-019**

PLAINTIFF

V.

CASE NO. 2:09cv00023-SWW-BD

UNITED STATES OF AMERICA, *et al.*

DEFENDANTS

RECOMMENDED DISPOSITION

I. Procedure for Filing Objections:

The following Recommended Disposition has been sent to United States District Judge Susan Webber Wright. 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 you receive the Recommended Disposition. A 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.

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

II. Background:

On February 26, 2009, Plaintiff filed this lawsuit pro se under 42 U.S.C. § 1983 (docket entry #1). Plaintiff did not move to proceed *in forma pauperis*, nor did he pay the \$350.00 filing fee to initiate this action with the Court.

On March 17, 2009, the Court issued an Order (#2) directing Plaintiff to file a complete application to proceed *in forma pauperis*, or pay the \$350.00 filing fee, within thirty days of entry of the order. Plaintiff was further ordered to file an Amended Complaint identifying and naming as Defendants the individuals who acted unconstitutionally and stating any injury he suffered based on the alleged constitutional violations.

Plaintiff failed to file a complete application to proceed *in forma pauperis* or pay the \$350.00 filing fee, and further failed to file an Amended Complaint in the time allowed. Thus, a Recommended Disposition was entered by this Court (#4) for dismissal of Plaintiff's Complaint without prejudice under Local Rule 5.5(c)(2) for failure to comply with the Court's Order of March 17, 2009.

On May 26, 2009, Plaintiff filed an Objection (#6) to the Recommended Disposition and filed an Amended Complaint (#8) on June 1, 2009. However, an application to proceed *in forma pauperis* still was not submitted, nor was the \$350.00 filing fee paid.

By Order of June 9, 2009 (#9), Judge Susan Webber Wright directed Plaintiff to submit the \$350.00 filing fee or a properly completed *in forma pauperis* application within 30 days. Plaintiff has failed to comply with that court order.

Plaintiff was previously notified that failure to timely comply with court orders could result in dismissal of his case. Further, it appears Plaintiff also has failed to notify the Court of his new address, as is evidenced by mail returned to the Court (#11) on June 23, 2009.

III. Conclusion:

The Court recommends that the District Court dismiss Plaintiff's Amended Complaint without prejudice, under Local Rule 5.5(c)(2), for failure to comply with the Court's Order of March 17, 2009 and the Order of June 9, 2009.

DATED this 23rd day of September, 2009.


UNITED STATES MAGISTRATE JUDGE