

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

AL M. WILLIAMS *et al.*
#362773

PLAINTIFFS

V.

NO: 2:11CV00210 SWW/HDY

MARVELL, CITY OF *et al.*

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Partial Recommended Disposition submitted by United States Magistrate Judge H. David Young, and the objections filed.¹ After

¹Plaintiff sues Marvell Police Officer Michael Harris and others for denying him adequate medical care in connection with his arrest and detention on March 27, 2011. Judge Young recommends granting summary judgment in Harris's favor because the undisputed facts demonstrate that he had no role in Plaintiff's arrest, detention, or alleged denial of medical care.

In his verified complaint, Plaintiff alleged that the day of his arrest, he called the police department for assistance unlocking his vehicle. Plaintiff further alleged that Harris responded to his call, but when he arrived at Plaintiff's mother's house, he stated that he forgot his "slim jim" and advised Plaintiff to "hold on" because another officer was on his way with the proper tool. Plaintiff recounted, "Immediately, thereafter . . . Jeremy Henson badge #311 arrived on the scene and told the plaintiff, 'it's kinda stupid to call the police to get your keys when you got warrants.'" Compl., ¶ 19.

In disagreement with his verified allegation that Officer Harris merely advised him to "hold on" and wait for an officer with a tool that could unlock his vehicle, Plaintiff now contends that Harris told him that he could not leave and that another officer was "en route to arrest the Plaintiff for a warrant." Docket entry #149, at 1. Plaintiff submits an affidavit in support of his objections, stating that Harris placed him in handcuffs. Plaintiff's recent affidavit testimony conflicts with his verified complaint and his statement of material facts filed in opposition to summary judgment, which states: "While . . . Harris . . . was still present waiting for assistance to unlock the Plaintiff's vehicle, . . . Henson . . . arrived to take the Plaintiff into custody." Docket entry #138, at 2.

The Court finds that Plaintiff cannot create an issue of fact at this juncture by controverting his verified allegations and statement of material facts. *See Conolly v. Clark*, 457 F.3d 872, 876 (8th Cir.2006) (stating that "a properly supported motion for summary judgment is not defeated by self-serving affidavits.").

carefully considering the objections and making a *de novo* review of the record in this case, the Court concludes that the Proposed Findings and Partial Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this court's findings in all respects.

IT IS THEREFORE ORDERED THAT the motion for summary judgment filed by Defendants Michael Harris, Uless Wallace, and the City of Marvell (docket entry #132), is GRANTED, and Plaintiff's claims against Harris, Wallace, and the City of Marvell, are DISMISSED WITH PREJUDICE.

DATED this 13th day of December, 2012.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE