

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

GARY COVINGTON, on behalf of
himself and all others similarly situated

PLAINTIFF

v.

No. 2:12-cv-123-DPM

ULESS WALLACE, individually and in his
official capacity; NEAL BYRD, in his official
capacity; and HERMAN HALL, individually
and in his official capacity

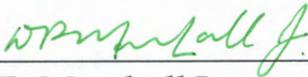
DEFENDANTS

ORDER

Prompted by *Payne v. Britten*, 2014 WL 1465548 (8th Cir. 16 April 2014), the Court revisits and revises its ruling on qualified immunity. There is a constitutional and state-law right to be brought promptly before a neutral magistrate for a first appearance, and that right is clearly established. *Gerstein v. Pugh*, 420 U.S. 103, 114-15 (1975); ARK. R. CRIM. P. 8.1. Covington alleges that he was held in jail for more than a month before he was brought before a judge, and he moved for partial summary judgment on the issue of liability. Viewing the facts in the light most favorable to the defendants, Covington's settled right was violated. The defendants are therefore not entitled to qualified immunity at the pleading stage. *Payne, supra*, at *3-5. Request for

qualified immunity, No 60, denied without prejudice. This issue can, of course, be revisited on a more complete record at the summary-judgment stage, at trial, or at both points.

So Ordered.



D.P. Marshall Jr.
United States District Judge