

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

**CLEOPHUS FRANKLIN
ADC #88453**

PLAINTIFF

V.

CASE NO. 3:11CV00248 DPM/BD

**COURTIS WALKER
and DOES**

DEFENDANTS

ORDER

Cleophus Franklin, an inmate housed at the Mississippi County Detention Center (“Detention Center”), filed this lawsuit pro se under 42 U.S.C. § 1983. Because Mr. Franklin’s original complaint was deficient, he was ordered to submit an amended complaint. Mr. Franklin has now complied with that order.

In his amended complaint, Mr. Franklin explains that he was arrested on August 26, 2011, for breaking and entering, as well as for theft of property. He claims that he has been held in the Detention Center since that date and has not been arraigned on his criminal charges. Mr. Franklin also complains that he has not seen the arrest report describing the crimes for which he has been charged; nor has he been appointed a lawyer to represent him in his criminal proceeding. Mr. Franklin requests money damages for each day that he has been held in the Detention Center.

Mr. Franklin, again, has not provided the Court with sufficient information to determine whether he can state a constitutional claim for relief. Mr. Franklin has not identified the individuals who have prevented him from being seen by a state court judge.

Mr. Franklin names the prosecuting attorney as a Defendant. As the Court previously explained to Mr. Franklin, prosecutors are entitled to absolute immunity for their conduct in initiating a prosecution and in presenting the State's case. *Patterson v. Von Riesen*, 999 F.2d 1235, 1237 (8th Cir. 1993).

In addition, in his original complaint, Mr. Franklin states that he names the Defendants in their official capacities. In order to state a claim against county officials in their official capacity, Mr. Franklin must allege that he was injured by an unconstitutional county policy or practice. Only defendants who are sued in their individual capacities can be held liable for money damages. Here, Mr. Franklin has not sued the Defendants in their individual capacities, and he has alleged no facts that would support a claim that there is a county policy or practice of failing to take defendants to court.

Accordingly, Mr. Franklin has an additional thirty days to identify those responsible for his detention without due process. He must set out facts supporting a claim that there is an unconstitutional county policy. If he seeks money damages, he must sue Defendants in their individual capacities.

Failure to comply with this order can result in a dismissal of this lawsuit.

DATED this 5th day of January, 2012.



UNITED STATES MAGISTRATE JUDGE