

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

**MELVIN JOHNSON, JR.
ADC #112882**

PLAINTIFF

v.

No. 3:14-cv-300-DPM-JJV

**LUTHER WHITFIELD, Lieutenant, Mississippi
County Detention Center; OCTAVIOUS BAILEY,
Jailer, Mississippi County Detention Center; DALE
COOK, Sheriff, Mississippi County Detention Center;
and JANE DOE, Nurse "Kristy," Mississippi County
Detention Center**

DEFENDANTS

ORDER

1. On *de novo* review, the Court partly adopts and partly declines the recommendation, *No 4*. Johnson's post-recommendation filings make things clearer.

2. As recommended, Cook is dismissed as a defendant without prejudice. *Hughes v. Stottlemire*, 454 F.3d 791, 798 (8th Cir. 2006).

3. Johnson has now stated a plausible failure-to-protect claim against Bailey and Whitfield. The case can proceed against them. The Court grants Johnson's motion for leave to amend, *No 11*, and directs the Clerk to make *No 11* the amended complaint. Magistrate Judge Volpe will handle the service issues.

4. Johnson's motion to add defendants, *No 6*, is denied. The Mississippi County Detention Center is not an entity that can be sued. And Johnson hasn't stated sufficient facts about any of the proposed defendants to make a claim.

5. The Court grants Johnson's request to voluntarily dismiss his claim without prejudice against Defendant Doe.

6. Johnson's motion for production, *No 5*, is denied without prejudice. Any needed discovery will be overseen by Judge Volpe after the defendants have been served and responded.

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Recommendation, *No 4*, partly adopted and partly declined. Cook and Doe are no longer defendants. Motions, *No 5 & 6*, denied. The case will proceed on *No 11* as the amended complaint. Case returned to Judge Volpe for further proceedings.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

13 April 2015