

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

RICKY ASHLEY

PLAINTIFF

VS.

CASE NO. 4:09CV00659JMM/HLJ

BARACK OBAMA, et al.

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge James M. Moody. 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 of the findings and recommendations. The 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.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of

proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

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

DISPOSITION

This matter is before the Court on plaintiff's motion to re-open this case (DE #27).

This case was dismissed, by Memorandum and Order and Judgment dated October 7, 2009, due to plaintiff's failure to prosecute (DE ##20, 21). Plaintiff originally filed this action on August 4, 2009, while incarcerated at the Carlisle City Jail, and he was granted leave to proceed in forma pauperis on August 24, 2009. However, mail addressed to plaintiff at the Jail was returned, and by Order dated September 2, 2009, the Court directed plaintiff to notify the Court of his new address and his intent to continue with the prosecution of this case, within thirty days. After receiving no response from plaintiff, the Court dismissed this case on October 7, 2009. Plaintiff filed a notice of change of address on October 19, 2009.

In support of his motion to re-open, plaintiff states he was moved from the Saline County Jail to the Carlisle City Jail without justification, and that he left a forwarding address at the Carlisle City Jail. However, plaintiff never made an effort to notify the Court of a change in his address. In addition, the Court notes that plaintiff is no stranger to this Court's rules and procedures, as he has been a party to fifty-seven cases filed within the last fifteen years. Plaintiff also has been deemed

a “three striker” within the meaning of the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(g), as he has had more than three cases dismissed as frivolous, malicious, or for failure to state a claim.¹

Given plaintiff’s history of litigation in this Court and his familiarity with its rules, his failure to explain why he did not notify the Court of his change in address, and his history as a three-striker, the Court finds plaintiff’s motion to re-open this action should be denied. Accordingly,

IT IS, THEREFORE, ORDERED that plaintiff’s motion to re-open (DE #27) is hereby DENIED.

IT IS SO ORDERED this 4th day of November, 2009.

Henry L. Jones, Jr.

United States Magistrate Judge

¹See Ashley v. Beam, 4:02cv00188, Ashley v. Bradley, 5:97cv00272, Ashley v. Rwon, 4:95cv00786, Ashley v. Johnson, 5:94cv00529, Ashley v. Racop, 5:94cv00327, and Ashley v. Reed, 5:94cv00240. See also Ashley v. Reasoner, 4:05cv00465, for a history of Ashley’s federal civil rights filings.