

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

**ROBERT STORAY**

**PLAINTIFF**

**V.**

**4:09CV00788-WRW**

**LITTLE ROCK POLICE DEPARTMENT**

**DEFENDANT**

**ORDER**

Pending are Defendant's Motion to Dismiss (Doc. No. 12) and Plaintiff's Motion to Continue (Doc. No. 21), which is really a response to Defendant's Motion to Dismiss.

In its motion to dismiss, the Little Rock Police Department asserts that it should be dismissed because it "is not a person or entity subject to service of process or suit."<sup>1</sup> I agree that police departments are not subject to suit and are "simply departments or subdivisions of the City government."<sup>2</sup> Based on the allegations in Plaintiff's complaint, the City of Little Rock, Arkansas, is the appropriate entity to sue and, because *pro se* complaints are to be liberally construed, I consider Plaintiff's claims to be against the City of Little Rock, Arkansas.<sup>3</sup> Accordingly, the Clerk of the Court is directed to substitute the City of Little Rock, Arkansas for Defendant Little Rock Police Department.

In his November 23, 2009, motion, Plaintiff points out that he intended to sue Officers O'Kelly, Officer T. Smith, and Sgt. Helton.<sup>4</sup> However, the three individuals were not listed in the caption of the complaint, but, rather, were included in the body of the complaint.

---

<sup>1</sup>Doc. No. 13.

<sup>2</sup>*Ketchum v. City of West Memphis*, 974 F.2d 81, 82 (8th Cir. 1992).

<sup>3</sup>See *Mosely v. Reeves*, 99 F. Supp. 2d 1048, 1053-54 (E.D. Mo. 2000).

<sup>4</sup>Doc. No. 21.

Based on the findings of fact and conclusions of law above, Defendant's Motion to Dismiss (Doc. No. 12) is DENIED and Plaintiff's Motion to Continue (Doc. No. 21) is DENIED as MOOT.

If Plaintiff intends to add Officer O'Kelly, Officer T. Smith, and Sgt. Helton as defendants he should file an amended complaint listing these officers (including their full names) in the caption, and specifically setting out the capacity in which he is suing the officers. Additionally, the amended complaint should include the City of Little Rock, Arkansas in the caption of the case, vice the Little Rock Police Department. Plaintiff's amended complaint must be filed by 5 p.m., Wednesday, December 23, 2009.

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

/s/ Wm. R. Wilson, Jr.  
UNITED STATES DISTRICT JUDGE