

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION**

BRIAN CLAY  
ADC #119898

PLAINTIFF

V.

NO: 4:09CV00805 JLH/HDY

DOC HOLLADAY *et al.*

DEFENDANTS

**PROPOSED FINDINGS AND RECOMMENDATIONS**

**INSTRUCTIONS**

The following recommended disposition has been sent to United States District Judge J. Leon Holmes. 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 fourteen (14) 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**

Plaintiff, currently held at the Randall Williams Correctional Facility, filed a *pro se* complaint on October 14, 2009, alleging that treatment for his diabetes was delayed while he was held at the Pulaski County Detention Facility. Plaintiff named eight Defendants, along with unnamed John Does, but failed to identify any specific claims against the named individuals.

On November 24, 2009, the Court entered an order directing Plaintiff to file an amended complaint which specifies the role each Defendant had in the alleged constitutional violations, and warned him that his failure to do so would result in the recommended dismissal of his complaint. Plaintiff filed his amended complaint on December 22, 2009 (docket entry #8), but the amended complaint fails to describe any constitutional violation by any of the named Defendants. The only Defendant mentioned by name in the amended complaint is Dr. Carl Johnson, who Plaintiff says may have been called before he was offered regular insulin, and possibly after Plaintiff informed staff at

the jail that he was allergic to regular insulin. Despite Plaintiff's naming of Johnson, he has not alleged that Johnson was actually contacted, but only that unnamed nurses said they would contact him. Plaintiff has failed to even name any of the other Defendants. Accordingly, Plaintiff's complaint should be dismissed for failure to comply with the Court's order.

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's complaint be DISMISSED WITHOUT PREJUDICE for failure to comply with the Court's order.
2. The Court certify that an *in forma pauperis* appeal taken from the order and judgment dismissing this action is considered frivolous and not in good faith.

DATED this 22 day of January, 2010.

  
UNITED STATES MAGISTRATE JUDGE