

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

RAPHAEL JONES,  
ADC #121171

PLAINTIFF

v.

No. 4:10CV01462 JLH-JJV

JOSH POLLOCK, Jail Administrator,  
Ashley County Detention Center

DEFENDANT

**ORDER**

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe and plaintiff's objections. After carefully considering the objections and making a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.

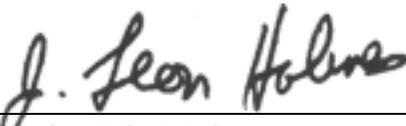
After Magistrate Judge Volpe recommended dismissing the complaint because Pollock was named only in his official capacity and Jones presented no evidence that the County had an unconstitutional policy, Jones filed a motion for leave to amend the complaint to name Josh Pollock in his individual capacity as the defendant in this case. That motion is denied because venue is improper in this Court. In an action such as this, venue lies in the district where the defendant resides or the district in which a substantial part of the events or omissions giving rise to the claim occurred. 28 U.S.C. § 1391(b). The complaint recites events that occurred in Ashley County, Arkansas, and names as defendant Josh Pollock with an address in Ashley County, Arkansas. Ashley County is in the El Dorado Division of the Western District of Arkansas, not the Eastern District. 28 U.S.C. § 83. As Magistrate Judge Volpe noted in his Proposed Findings and Recommended Disposition, the action was filed against Josh Pollock in his official capacity, which

is in effect an action against the County. While the County answered and did not raise improper venue in the answer, Josh Pollock, individually, has not answered and therefore has not waived any objection he may have to venue. The Court declines to permit an amendment to the complaint to name a new defendant when venue does not lie in this Court. All other motions are denied as moot.

IT IS, THEREFORE, ORDERED that:

1. Defendant's motion for summary judgment (Document #45) is GRANTED; and
2. Plaintiff's complaint (Document #2) against defendant is DISMISSED with prejudice.

IT IS SO ORDERED this 23rd day of September, 2011.

  
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J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE