

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

WILLIE WASHINGTON,
ADC #133081

PLAINTIFF

V.

4:11CV00008 JTR

KARL BYRD, Sheriff,
Faulkner County Detention Center, et al.

DEFENDANTS

ORDER

There are two nondispositive matters pending, which the Court will address separately.

I. Defendants' Motion for Summary Judgment

Plaintiff alleges that, while he was a pretrial detainee at the Faulkner County Detention Facility, Defendants punished him without affording him procedural due process. *See* docket entries #2 and #5.

On August 29, 2011, Defendants filed a Motion for Summary Judgment in which they concede that pretrial detainees are entitled to procedural due process prior to being punished while (in most cases) convicted prisoners are not. *See* docket entry #32. They go on to argue that Plaintiff was a convicted prisoner, and not a pretrial detainee, because at the time of the alleged constitutional violations he was in custody

on pending parole violation charges.¹ *Id.* However, Defendants have not cited *any legal authority* to support that proposition, which appears to be a novel issue in the Eighth Circuit. Similarly, Defendants have not provided any specific legal authority to support their contention that they are entitled to qualified immunity. *See Serna v. Goodno*, 567 F.3d 944, 952 (8th Cir. 2009) (explaining that qualified immunity is a “fact-intensive inquiry that must be undertaken in light of the specific context of the case, [and] not as a broad general proposition”); *Davis v. Hall*, 375 F.3d 703, 712 (8th Cir. 2004) (same).

Thus, the Court will give Defendants until and including November 21, 2011, to file a Supplemental Brief that provides legal authority to support their arguments. Thereafter, Plaintiff will have until and including December 20, 2011, to file a Supplemental Response to Defendants’ Motion for Summary Judgment.

II. Plaintiff’s Motion to Compel

On October 3, 2011, Plaintiff filed a Motion asking the Court to compel Defendants to respond to Interrogatories he sent them sometime in June or July of 2011. *See* docket entry #40. Defendants have filed a Response stating that they served Plaintiff with their Responses to his Interrogatories on October 12, 2011. *See* docket

¹ Plaintiff’s parole was revoked after the alleged constitutional violations occurred. *Id.*

entry #41. Accordingly, Plaintiff's Motion to Compel is denied as moot.

III. Conclusion

IT IS THEREFORE ORDERED THAT:

1. Defendants shall file, **on or before November 21, 2011**, a Supplemental Brief in Support of their Motion for Summary Judgment that contains the information specified in this Order.
2. Plaintiff's Motion to Compel (docket entry #40) is DENIED, AS MOOT.
3. Plaintiff may file, **on or before December 20, 2011**, a Supplemental Response to Defendants' Motion for Summary Judgment.

Dated this 26th day of October, 2011.



UNITED STATES MAGISTRATE JUDGE