

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

CHRISTOPHER S. CLARK,
ADC #147653

PLAINTIFF

v.

4:11-cv-00135-BSM-JTK

OFFICER ELLIS, et al.

DEFENDANTS

ORDER

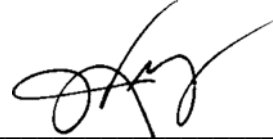
By Order dated May 9, 2011 (Doc. No. 12), this Court re-opened Plaintiff's action against Defendants and granted Plaintiff's motion to proceed in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983. However, finding Plaintiff's Complaint too vague and conclusory to enable the Court to determine whether it is frivolous, fails to state a claim, or states a legitimate claim, the Court directed him to submit an Amended Complaint within thirty days. The Court also cautioned Plaintiff that an Amended Complaint would render the Original Complaint without legal effect, and would take the place of his Original Complaint. Plaintiff has now submitted an Amended Complaint (Doc. No. 15). Having reviewed the Amended Complaint, it now appears to the Court that service is appropriate for Defendants Ellis, Bingham, Zomant, Clark, and Harris.

Plaintiff also identifies two Defendants by their first names only – Misty and Chris. Since the complete identity of these Defendants is not known, the Clerk can not issue summons, and the Marshal is unable to serve an unknown person. Plaintiff will be allowed to engage in limited discovery consistent with the Federal Rules of Civil Procedure, if necessary, to try to determine the complete identity of these Defendants. Once Plaintiff is able to identify Defendants by name and address, the Court should be notified so that service can be ordered. Accordingly,

IT IS, THEREFORE, ORDERED that service is appropriate for the Defendants Officer Ellis, Officer Bingham, Heather Zomant, Officer Clark, and Officer Harris. The Clerk of the Court shall prepare summons for the Defendants and the United States Marshal is hereby directed to serve a copy of the Amended Complaint (Doc. No. 15) and summons on these Defendants without prepayment of fees and costs or security therefore.

IT IS FURTHER ORDERED that Plaintiff's Motion to Appoint Counsel (Doc. No. 14) is DENIED without prejudice at this time.

IT IS SO ORDERED this 26th day of May, 2011.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE