

**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

This matter is before the Court on Defendants' Motion to Set Aside Summons Returned Executed (Doc. No. 30), and on Plaintiff's Motion to Amend (Doc. No. 34).

In support of their Motion, Defendants Bingham, Clark and Harris state that White County Sheriff's Office received summonses and complaints directed to them on June 14, 2011, but that Defendant Harris never worked at the Sheriff's Office or Detention Center, and that Defendants Bingham and Clark are no longer employed with the Office or Detention Center and were not employed on June 14, 2011. Defendants state they never received service and that the purported service of them should be set aside. Plaintiff did not file a Response to the Motion.

Since Defendants state they were not employed by the White County Sheriff's Office or Detention Center on the date of service, June 14, 2011, the Court finds they were not properly served within the meaning of FED.R.CIV.P. 5. Therefore, Defendants' Motion to Set Aside Summons will be granted.

The Court also will grant Plaintiff's Motion to add an allegation of unconstitutional conditions of confinement against Defendants (Doc. No. 34). Accordingly,

IT IS, THEREFORE, ORDERED that the Motion to Set Aside Summons Returned Executed, filed by Defendants Bingham, Clark and Harris (Doc. No. 30) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's Motion to Amend (Doc. No. 34) is GRANTED.

IT IS SO ORDERED this 19th day of July, 2011.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE