

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

**ALLEN POLK
#1902-11**

PLAINTIFF

V.

CASE NO. 4:11CV00383 JMM

DOES, ET AL.

DEFENDANTS

ORDER

The Court has received the Partial Recommended Disposition from Magistrate Judge Beth Deere. For the reasons stated below, the Court finds the objection to be without merit.

Plaintiff's Amended Complaint alleges that Sargent M. Sanders used excessive force against him when she sprayed him with a chemical agent. The Magistrate Judge found that Plaintiff failed to allege that Defendant Pulaski County had a custom or policy that resulted in his injury and recommended the dismissal of the claim against Pulaski County without prejudice. The Magistrate Judge's recommendation also dismissed Plaintiff's claims against various other defendants without prejudice and the claim against Pulaski County Detention Center with prejudice.

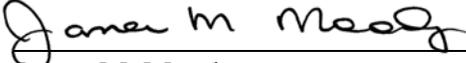
Plaintiff filed a Motion to Amend his complaint and a timely objection. Plaintiff objected to the dismissal of Pulaski County only. He contends that his amended complaint will correct his deficient pleading as to Pulaski County.

In Plaintiff's Motion to Amend/Correct he seeks to amend his complaint to state that "Defendant Pulaski County has an unconstitutional "Policy" in place prohibiting inmates from possessing "ink pens," (See INMATE HANDBOOK, previously exhibited (Ex. B) at page 18; "NO INK PENS ALLOWED") which runs contrary to its policy at page 14 establishing "ACCESS TO THE COURTS" as a "BASIC INMATE RIGHT" . . ." See Doc. No. 14. Plaintiff's proposed amended to his complaint does not cure the deficiency found in his allegations concerning the alleged use of excessive force by Defendant Pulaski County.

After careful review of the recommendation, the timely objections received thereto, as well as a *de novo* review of the record, the Court concludes that the Partial Recommended Disposition should be, and hereby is, approved and adopted as this Court's findings in all respects.

Plaintiff's claims against Pulaski County, F.G. Villines, III, Doc Holladay, Joe Gardner, Randy Morgan, Shawn Smith, Sargent Brawley, and Sargent Clarke are dismissed without prejudice. His claim against the Pulaski County Detention Facility is dismissed with prejudice.

IT IS SO ORDERED, this 11 day of July, 2011.



James M. Moody
United States District Judge