

**THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

**RAYMOND J. KINNEY,
Reg. # 28979-009**

PLAINTIFF

v.

Case No. 4:16-cv-00716-KGB/JJV

**CHARLES HOLIDAY,
Sheriff of Pulaski County; et al.**

DEFENDANTS

ORDER

The Court has reviewed the Recommended Disposition submitted by United States Magistrate Judge Beth Deere (Dkt. No. 28) and the Partial Recommended Disposition (Dkt. No. 7). Plaintiff Raymond J. Kinney filed objections to the Recommended Disposition (Dkt. No. 33), but he filed no objections to the Partial Recommended Disposition. His objections to the Recommended Disposition were untimely filed, but this Court has considered those objections. After careful consideration of the Recommended Disposition, the Partial Recommended Disposition, and the objections, and after a *de novo* review of the record, the Court concludes that the Recommended Disposition should not be adopted as this Court's findings (Dkt. No. 28) but that the Partial Recommended Disposition should be adopted as this Court's findings in its entirety (Dkt. No. 7).

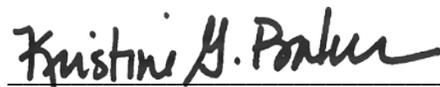
In regard to the Recommended Disposition, Mr. Kinney is correct in that he filed change of address forms on November 29, 2016 (Dkt. No. 13) and February 8, 2017 (Dkt. No. 32), explaining why he anticipated that his mailing address would change and advising the Court of his whereabouts. As a result, after a *de novo* review of the record, the Court declines to dismiss without prejudice Mr. Kinney's case for the reasons cited by Judge Deere. Mr. Kinney may proceed with his remaining claims.

In the Partial Recommended Disposition, Judge Deere recommends that Mr. Kinney's claims against defendants in their official capacities be dismissed without prejudice and that his claims against defendant Holiday in his individual capacity be dismissed without prejudice (Dkt. No. 7). For the reasons explained by Judge Deere, this Court adopts that Partial Recommended Disposition and dismisses without prejudice Mr. Kinney's claims against defendants in their official capacities and claims against defendant Holiday in his individual capacity.

Further, as Mr. Kinney has indicated to the Court that he has received no filings in this matter since December 5, 2016 (Dkt. No. 32), the Clerk is instructed to mail to Mr. Kinney copies of all docket entries in this matter entered since on or after December 5, 2016 (Dkt. Nos. 15-36).

The Court also notes that, in a prior Order, the Court requested that defendants provide to the Court an updated address for defendant Huitt, as a summons served on defendant Huitt was returned as undeliverable. As Mr. Kinney is permitted to proceed with his remaining claims, the Court requests that Judge Deere review Sealed Dkt. No. 29 to determine whether service upon defendant Huitt is appropriate in this matter.

So ordered this the 14th day of July, 2017.



Kristine G. Baker
United States District Court