

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

**SIMON ERIC REED**

**PLAINTIFF**

**v.**

**No. 4:18-cv-57-DPM**

**TIM RYALS, Sheriff, Faulkner County;  
CHRISTOPHER RIED MUELLER,  
Captain, Faulkner County Detention Center;  
MATT RICE, Chief of Deputies, Faulkner  
County Sheriff's Department; RUSTY  
PAGE, Sergeant, Faulkner County Sheriff's  
Department; GARY ANDREWS, Lieutenant,  
Faulkner County Sheriff's Department;  
MONTY HARPER, Officer, Faulkner County  
Sheriff's Office; MATTHEW BIRDSONG,  
Sergeant; ALRED DANE, Patrol Officer;  
JOEY CRISAFULLI, Patrol Officer; and  
DOES, Unknown Officers**

**DEFENDANTS**

**ORDER**

1. Motion to proceed *in forma pauperis*, No 32, granted. Reed may proceed without paying the filing and administrative fees.
2. The Court granted Reed's motion to reopen this case. No 20 & No 22. Now the Court must screen the remaining claims in Reed's amended complaints and supplement. No 8, No 9, No 21; 28 U.S.C. § 1915A.

3. Reed doesn't allege any actions by Mueller, Page, Andrews, Birdsong, Dane, or Crisafulli that violated his constitutional rights. His claims against these Defendants are therefore dismissed without prejudice. 42 U.S.C. § 1983; *West v. Atkins*, 487 U.S. 42, 48 (1988).

4. Reed says that Ryals, Rice, and Harper were directly involved in the allegedly unlawful stop, search, and arrest. He also says these actions were all taken pursuant to an official policy or custom. *No 8 at 6-7 & No 21*. For screening purposes, these claims may proceed. The Court directs the Clerk to prepare summonses for Ryals, Rice, and Harper. The United States Marshals Service must serve the amended complaints and supplement, *No 8, No 9 & No 21*, a summons, and this Order on each of those Defendants without prepayment of fees and costs or security. Ryals, Rice, and Harper should be served through the Faulkner County Sheriff's Office, 801 Locust Street, Conway, Arkansas 72034.

5. Reed claims that his due process rights were violated because he was charged by felony information rather than by grand jury indictment, because the government "was drag[ging] its feet to dismiss charges" against him, and because he wasn't given a probable cause hearing. *No 8 at 7, 10*. There is no constitutional right to have criminal charges brought in an indictment. *Franklin v. White*, 803 F.2d 416, 418 (8th Cir. 1986) (*per curiam*). And Reed doesn't say how any of the Defendants allegedly delayed the disposition of his state criminal case

or denied him a probable cause hearing. Reed's due process claims are therefore dismissed without prejudice.

6. Reed also says that he wasn't appointed a lawyer. As the Magistrate Judge previously noted, though, it appears the circuit court approved a public defender for Reed at his initial appearance. *No 16 at 2-3*. In any event, Reed doesn't say how any of these Defendants caused the alleged denial of counsel. This claim is therefore dismissed without prejudice, too.

7. Last, Reed says that his right of access to the courts was violated because he wasn't given a bond hearing or a suppression hearing in the state criminal case. *No 8 at 10*. It appears Reed's bond was set at the initial appearance, though. *No 16 at 2-3*. And because the criminal charges against Reed were *nolle prossed*, the lack of a suppression hearing caused him no injury. *White v. Kautzky*, 494 F.3d 677, 680-81 (8th Cir. 2007). Further, Reed doesn't say how these Defendants were responsible for either of those alleged violations. His access-to-the-courts claims are therefore dismissed without prejudice.

8. In addition to damages, Reed initially asked for his freedom and for legal materials from the detention center. Because Reed's criminal charges were *nolle prossed* and he was released, the latter two requests are denied as moot.

So Ordered.

*D.P. Marshall Jr.*

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D.P. Marshall Jr.  
United States District Judge

*13 June 2018*