

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

ALAX PAUL CLINGMON

PLAINTIFF

V.

5:08CV00249 SWW/HDY

ERNEST GOLDEN, Administrator, Arkansas
County Detention Center; and JOSH HINES, Lt.,
Arkansas County Detention Center

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge Susan Webber Wright. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at

the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Plaintiff, an inmate at the Arkansas County Detention Center, filed this action naming himself (and two others, who were initially treated as Plaintiffs, but were later dismissed on their own motion) as the victim of civil rights violations by officials at the detention center. However, because Plaintiff Clingmon alleged only speculative injury, not present harm, he was ordered on September 15, 2008 (docket entry #4) to file an Amended Complaint setting forth his claims against the Defendants. This Order was mailed to Plaintiff Clingmon at this last-known address, the Arkansas County Detention Center, and has not been returned to the Court as undelivered. On or about October 2, 2008, the Court also received correspondence from Plaintiff Clingmon, related to

another case, *Norman v. Wells et al.*, 5:08CV00224 JLH, which indicated that Plaintiff Clingmon was still at the Arkansas County Detention Center. More than thirty days have now passed and Plaintiff Clingmon has failed to respond to the Court's order to submit an Amended Complaint. Under these circumstances, the undersigned concludes that Plaintiff's Complaint should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2).¹

IT IS THEREFORE RECOMMENDED that Plaintiff's Complaint (docket entry #1) be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2).

DATED this 28 day of October, 2008.



UNITED STATES MAGISTRATE JUDGE

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Local Rule 5.5(c)(2) provides that: "It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure."