

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

LADELL JOHNSON, SR.

PLAINTIFF

V.

5:08CV00259 JMM/HDY

CARLA ROYALE, Ms., Nurse, W.C. "Dub" Brassell Detention Center; ANGELA RANDLE, Ms., Nurse, W.C. "Dub" Brassell County Detention Center; and MOORE, Mrs., Detention Officer, W.C. "Dub" Brassell Detention Center

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge James M. Moody. 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 W.C. “Dub” Brassell Detention Center, filed this action alleging claims of deliberate indifference by officials at the detention center. On November 3, 2008, counsel for separate Defendant W.C. “Dub” Brassell Detention Center filed a Motion to Dismiss (docket entry #15) on the grounds that it was not a legal entity subject to suit. This Order was mailed to Plaintiff at this last-known address, the W.C. “Dub” Brassell Detention Center, and has not been returned to the Court as undelivered. On November 10, 2008, a Scheduling Order was entered, setting this matter for an Evidentiary Hearing on February 2, 2009. This too was mailed to Plaintiff at the detention center.

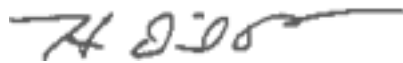
When on November 20, 2008, the Court still had not received a response from Plaintiff to the pending Motion to Dismiss, the Court entered an Order granting Plaintiff an additional fourteen

days in which to file a response, in light of his *pro se* status. However, since that time, the Court's Scheduling Order has been returned undelivered, marked "Return to Sender, Unable to Forward" (docket entry #22). The Court has been provided no other address for Plaintiff and, in light of his representation to the Court in his Complaint that he was serving a 120 day sentence "for fine and cost and restitution" there is no indication that he has been transferred to the custody of the Arkansas Department of Correction.

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 #2) be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2).

DATED this 25 day of November, 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."