

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

CHARLES DURDIN,
#3396

PLAINTIFF

v.

5:09CV00120JMM/HLJ

OFFICER GENTILE, et al.

DEFENDANTS

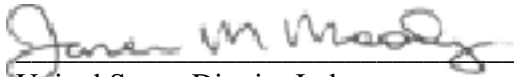
ORDER

By Order dated May 4, 2009 (DE #4), this Court granted plaintiff's application to proceed in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983. However, finding plaintiff's complaint too vague and conclusory to enable the Court to determine whether it is frivolous, fails to state a claim, or states a legitimate claim, the Court directed plaintiff to submit an amended complaint within thirty days. Plaintiff has now submitted an amended complaint (DE #6). Having reviewed the original and amended complaints, and construing them together, it now appears to the Court that service is appropriate.

With respect to plaintiff's complaint, the Court notes that plaintiff has identified one defendant as an unknown police officer. Since the identity of this defendant is not known, the Clerk can not issue summons, and the Marshal is unable to serve an unknown person. After the complaint is filed, plaintiff will be allowed to engage in limited discovery consistent with the Federal Rules of Civil Procedure, if necessary, to try to determine the identity of this John Doe. Once plaintiff is able to identify defendant by name and address, the Court should be notified so that service can be ordered. Accordingly,

IT IS, THEREFORE, ORDERED that service is appropriate for the defendants Officer Gentile and Deputy Chief Winfield. The Clerk of the Court shall prepare summons for the defendants and the United States Marshal is hereby directed to serve a copy of the original (DE #2) and amended complaints (DE #6) and summons on defendants without prepayment of fees and costs or security therefore.

IT IS SO ORDERED this 14th day of May, 2009.


United States District Judge