

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

MIKE HURST

PLAINTIFF

v.

No. 5:11-cv-226-DPM

GERALD ROBINSON, Individually
and in his Official Capacity as Sheriff,
Jefferson County, Arkansas; and MIKE
HOLCOMB, Individually and in his
Official Capacity as County Judge,
Jefferson County, Arkansas

DEFENDANTS

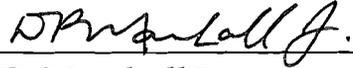
ORDER

Hurst's motion for partial summary judgment, *Document No. 6*, is granted in part and denied in part. It is undisputed that Hurst served Robinson, as the proofs of service show. *Document No. 6, at 3-6*. While the Defendants argue that they have not yet asserted insufficiency of service as an affirmative defense, and therefore the motion is premature, they did assert the defense in their answer. *Document No. 2, at 5*. There is no genuine issue of material fact, and Hurst is entitled to judgment on this affirmative defense as to Robinson.

The issue as to Holcomb is a bit murky. The return indicates that Hurst served Holcomb (the county judge) by serving "Terry Wynne," the "city attorney." *Document No. 6, at 7-10*. This seems odd. The Court therefore

directs Holcomb to either challenge service or waive his defense by 30 January 2012. Hurst's motion is denied without prejudice as to Holcomb.

So Ordered.



D.P. Marshall Jr.
United States District Judge



19 January 2012