

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

WILLIAM EUGENE LANGLEY

PLAINTIFF

v.

Case No. 5:15-cv-00097-KGB/PSH

**MICHAEL ELMORE, and
JACOB KING**

DEFENDANTS

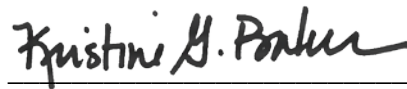
ORDER

The Court has reviewed the Findings and Recommendation submitted by United States Magistrate Judge Patricia S. Harris (Dkt. No. 57). Plaintiff William Eugene Langley filed untimely his response to motion for summary judgment, which this Court construes as an untimely objection to the Findings and Recommendation (Dkt. No. 61). Also pending before the Court is defendants' motion to substitute counsel (Dkt. No. 59). After careful consideration of the Findings and Recommendation, the Court concludes that the Findings and Recommendation should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects (Dkt. No. 57). Defendants' motion to substitute counsel is granted (Dkt. No. 59).

Even if this Court considers Mr. Langley's untimely objection, Mr. Langley presents no new record evidence in his objection. Moreover, even when that record evidence is considered, it does not alter the Court's finding. Defendants Michael Elmore and Jacob King were not present when Mr. Langley was attacked. There is no evidence in the record that establishes that Mr. Elmore and Mr. King should have been present in the dining hall during the incident or that they were responsible for staffing levels in the dining hall during the incident. Further, all evidence in this case indicates that the attack upon Mr. Langley was a complete surprise to all involved, despite best efforts to investigate and address the threat about which Mr. Elmore and Mr. King were made aware of weeks before the incident.

It is therefore ordered that the motion for summary judgment filed by separate defendants Mr. Elmore and Mr. King is granted (Dkt. No. 53). Mr. Langley's claims against Mr. Elmore and Mr. King are dismissed with prejudice based on Mr. Langley's failure to substantiate his claim. Defendants' motion to substitute counsel is granted (Dkt. No. 59). Assistant Attorney General Bourgon Reynolds is no longer counsel of record for defendants. Assistant Attorney General Delena C. Hurst is now representing defendants and should be substituted as counsel of record. This case is dismissed.

Dated this 19th day of September 2017.



Kristine G. Baker
United States District Judge