

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

ANDREW TRAMANE BREWER

PLAINTIFF

v.

Civil No. 1:06-cv-01013

ROBERT PHILSON, Magnolia
Police Department

DEFENDANT

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Andrew Tramane Brewer filed this action pursuant to 42 U.S.C. § 1983 on January 26, 2006. He proceeds *pro se* and *in forma pauperis*. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3)(2005), the Honorable Harry F. Barnes, United States District Judge, referred this case to the undersigned for the purpose of making a report and recommendation.

Defendants filed a motion for summary judgment (Doc. 25). To assist the Plaintiff in responding to the motion, I propounded a questionnaire to the Plaintiff (Doc. 30). Plaintiff was directed to complete, sign and return the questionnaire by December 15, 2007 (Doc. 30). To date, the Plaintiff has failed to respond to the questionnaire. The order and attached questionnaire have not been returned as undeliverable. The order was mailed to the same address as the court's prior orders. Plaintiff has not informed the court of any change in his address. Plaintiff has not sought an extension of time to respond to the questionnaire or otherwise communicated with the court.

I therefore recommend this case be dismissed with prejudice on the grounds the Plaintiff has failed to prosecute this action and comply with the order of the court. *See* Fed. R. Civ. P. 41(b). **The parties have ten days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result**

in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 5th day of February 2008.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE