

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

ANTHONY HICKS

PLAINTIFF

VS.

CASE NO.1:08-CV-1089

SHERIFF PAUL LUCAS; CHIEF
DEPUTY JOE STRICKLAND;
CAPTAIN DAVID NORWOOD;
JAILER CHRIS GILL; JAILER
MARK SPEER

DEFENDANTS

ORDER

Before the Court is Plaintiff, Anthony Hicks's, Objection to the Report and Recommendation of Judge Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 64). Plaintiff's objection comes approximately 25 days after the Court issued an Order adopting Judge Bryant's report in its entirety. (ECF No. 63). Therefore, the Court will address Plaintiff's objection as a motion for reconsideration. For the reasons set forth below, the motion must be denied.

On October 26, 2011, Judge Bryant issued a report and recommendation to dismiss Plaintiff's § 1983 claims for failure to prosecute his case and failure to obey a Court Order by not submitting his pre-hearing materials. (ECF No. 52). Plaintiff filed a timely objection to Judge Bryant's report. (ECF No. 54). On February 15, 2012, the Court declined to adopt Judge Bryant's report as its own and directed Plaintiff to file his pre-hearing materials, including witness and exhibits lists, within 10 days. (ECF No. 55). On February 29, 2012, Plaintiff filed his pre-hearing materials, including certain exhibits, but he did not submit a witness list. (ECF No.

56). On April 25, 2012, Judge Bryant issued an Order for Plaintiff to show cause for his failure to include the witness list in his pre-hearing materials. (ECF No. 58). In that order, Judge Bryant also extended a previous deadline, from May 2, 2012 to May 4, 2012, for Plaintiff to complete his prehearing submission. Plaintiff failed to respond to that order. On May 9, 2012, Judge Bryant issued a second report and recommendation to dismiss Plaintiff's claims for failure to respond to the show cause order and failure to prosecute his case. (ECF No. 62). On May 31, 2012, the Court adopted Judge Bryant's report as its own. (ECF No. 63). Plaintiff now moves the Court to reconsider its Order adopting Judge Bryant's report. (ECF No. 64).

Plaintiff asserts that he submitted a letter on May 4, 2012 to the "pro se clerk," notifying her that he did not have any witnesses, and that he had already submitted all of the evidence he intended to present in his pre-hearing materials. Plaintiff swears by affidavit that he sent the letter to the Court. (ECF No. 64). Despite Plaintiff's assertion, the Court never received a copy of the May 4th letter, and Plaintiff did not attach a copy of the letter to his motion or affidavit. Because the Court has not received the letter that Plaintiff describes, and because Plaintiff failed to submit a witness list, respond to Judge Bryant's show cause order, or timely object to the report and recommendation, Plaintiff's motion must be denied.

Accordingly, for the reasons stated herein and those stated in its Order adopting Judge Bryant's report and recommendation, (ECF No. 63), the Court finds that Plaintiff's Motion for Reconsideration should be and hereby is **DENIED**.

IT IS SO ORDERED, this 16th day of October, 2012.

/s/ Susan O. Hickey
Hon. Susan O. Hickey
United States District Judge