

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

PETE WILLIAM CORN

PLAINTIFF

v.

Civil No. 1:09-cv-01015

KEN JONES, Union County Sheriff;
CAPT. JOHN WILLIAMS, Union County
Criminal Justice Facility; LT. BASS;
DEPUTY GERRY AVERY; DR. SEAL; and
NURSE KELLY PEPPER

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, Pete William Corn (hereinafter Corn), filed this action pursuant to 42 U.S.C. § 1983. He proceeds *pro se* and *in forma pauperis*. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3)(2007), the Honorable Harry F. Barnes, United States District Judge, referred this case to the undersigned for the purpose of making a report and recommendation.

On November 11, 2009 (Doc. 15, Doc. 16 & Doc. 17), Defendants filed a motion for summary judgment. On December 4, 2009, an order (Doc. 18) was entered directing Corn to complete an attached notice regarding the summary judgment motion. The notice required Corn to state whether he would file a response to the summary judgment motion on his own or was requesting the Court's assistance by the preparation of a questionnaire.

Corn was directed to return the attached notice by December 28, 2009. Corn was advised (Doc. 18) that if he failed to return the attached notice by December 28, 2009, the case would be subject to summary dismissal for failure to obey the order of this Court and failure to prosecute this action.

To date, Corn has not returned the notice. He has not requested an extension of time to file

the notice. The Court's order was sent to address contained on the docket sheet. This address was provided to the Court by Corn. The order and attached notice have not been returned as undeliverable.

I therefore recommend that this case be dismissed based on Corn's failure to obey the order of the court and his failure to prosecute this action. Fed. R. Civ. P. 41(b).

The parties have fourteen (14) 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 22nd day of January 2010.

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