

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

AL JABBAR SALAM

PLAINTIFF

VS.

CASE NO. 12-CV-1040

JAIL ADMINISTRATOR JANET
DELANEY; SGT. COLLIER; SGT.
MEEKS; SGT. RICHARDSON; JAILER J.
HAYES; JAILER PITTS; JAILER SMITH;
JAILER EDWARD; JAILER C. HAYES;
JAILER TURNER; MRS. RASEBERRY;
and JAILER MURPHY

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed June 28, 2012 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 7). Judge Bryant Recommends that Plaintiff's case be dismissed with prejudice for failure to comply with a Court order. After reviewing the record *de novo*, the Court declines to adopt Judge Bryant's Report and Recommendation.

Plaintiff was ordered to file an Amended Complaint by May 18, 2012. (ECF No. 3). On May 22, 2012, Plaintiff filed a Motion for Extension of Time to file his Amended Complaint. (ECF No. 5). That motion was granted, even though it was not timely filed, and Plaintiff was ordered to file his Amended Complaint by June 25, 2012. Plaintiff failed to file his Amended Complaint on June 25, and on June 28, Judge Bryant issued his Report and Recommendation.

On July 17, after Judge Bryant's Report and Recommendation was issued, Plaintiff filed a Motion for Charges to be Filed Against Defendants. (ECF No. 8). On July 18, Plaintiff filed an Amended Complaint. (ECF No. 10). In his Motion for Charges to be Filed Against Defendants (ECF No. 8), Plaintiff states that Defendants have been tampering with his mail, preventing him from sending mail, and denying him paper to write with. Plaintiff claims that he had to tear paper out of

the back of a book in order to file the motion. While Plaintiff's motion is not titled as an objection to the Report and Recommendation, the motion does address the issues set forth in the Report and Recommendation and attempts to explain why Plaintiff did not file his Amended Complaint on time. Accordingly, the Court will construe this the motion as a timely filed objection to the Report and Recommendation.

Upon consideration, the Court finds that Plaintiff has sufficiently shown why he was unable to comply with Judge Bryant's previous order. For this reason, the Court declines to adopt the Report and Recommendation. Plaintiff's Amended Complaint (ECF No. 10) will be considered as timely filed. Because Plaintiff's Motion for Charges to be Filed Against Defendants (ECF No. 8) is being construed as Plaintiff's Objection to the Report and Recommendation, the Clerk is directed to terminate the motion.

IT IS SO ORDERED, this 28th day of August, 2012.

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