

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

BILLY JOE NELSON

PLAINTIFF

v.

Civil No. 08- 2037

DEPUTY WATERDOWN;  
DEPUTY BURGOS;  
CORPORAL CUPP;  
CPT. MARVIN;  
DEPUTY IRVIN;  
SHERIFF ALLEN;  
DEPUTY ALLISSON;  
DEPUTY COLE;  
DEPUTY HUFFMAN;  
CPL. MEHAFFY

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

On June 26, 2009, the Court entered an Order granting Plaintiff's Motion for Extension of Time (Doc. 30) and allowing until and including July 31, 2009 for Plaintiff to file his Response to the Defendants' Motion for Summary Judgment. (Doc. 31). This date has passed, and the Court has received no response to the Defendants' Motion for Summary Judgment, or other correspondence from the Plaintiff. No mail has been returned to the Court. Additionally, the records of the Arkansas Department of Corrections show Plaintiff to be housed at the address of record.

Accordingly, it is the recommendation of the undersigned that the above styled case be dismissed without prejudice for failure to prosecute, failure to obey an Order of the Court, and/or failure to comply with Local Rule 5.5 (c) (2) for the Eastern and Western Districts of Arkansas.

**Plaintiff has ten (10) days from receipt of this 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. Plaintiff is reminded that objections must be both timely and specific to trigger de novo review by the district court.**

Dated this 13th day of August, 2009.

/s/ J. Marschewski  
HONORABLE JAMES R. MARSCHEWSKI  
UNITED STATES MAGISTRATE JUDGE