

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

REX LEE RITCHIE

PLAINTIFF

v.

Case No. 08-2038

MIKE ALLEN; JEFF MARVIN;
WATERDOWN; IRWIN; ALISON;
CHRIS and LANGLEY

DEFENDANTS

ORDER

Now on this 12th day of August 2009, there comes on for consideration the report and recommendation filed on June 18, 2009, by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas (Doc. 39). Also before the Court are Plaintiff's objections to the report and recommendation (Doc. 43) and Defendants' Motion to Withdraw and Substitute Counsel (Doc. 41).

The court has reviewed this case *de novo*. The report and recommendation recommends dismissal of Plaintiff's Complaint for failure to prosecute and obey an order of the Court, specifically, by Plaintiff's failure to advise the Court of any change of address. In his objections, Plaintiff contends this failure was due to his incarceration and has provided the Court with a current address. Accordingly, the Court declines to adopt the report and recommendation. Plaintiff is advised that he must timely respond to Defendants' Motion for Summary Judgment, and he will receive a questionnaire from the Court to assist him in his response.

Defendants' Motion to Withdraw and Substitute Counsel (Doc.

41) is GRANTED, and C. Burt Newell is substituted for Jacob M. Hargraves as counsel for Defendants.

IT IS SO ORDERED.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge