

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

MELVIN PAUL GARRIS

PLAINTIFF

v.

Civil No. 08-2045

JOHN OR JANE DOE OFFICERS
OF THE CRAWFORD COUNTY
SHERIFF'S DEPARTMENT; and
CHRISTOPHER WATERS, Arkansas
State Trooper

DEFENDANTS

ORDER

On October 20, 2008, Sheriff Allen responded (Doc. 14) to the court's order (Doc. 12) advising the court that the plaintiff was arrested by Arkansas State Trooper Christopher Waters and not by officers of the Crawford County Sheriff's Department. Sheriff Allen additionally indicated that the Crawford County Sheriff's Office did not seize the plaintiff's vehicle on **November 18, 2005**.

In view of Sheriff Allen's response, the court substituted Trooper Waters as a defendant in place of Sheriff Allen and had him served. Trooper Allen has now filed a motion to dismiss (Doc. 21). Plaintiff has responded to the motion to dismiss (Doc. 23 and Doc. 25). Plaintiff states he has no claim against Trooper Waters. Plaintiff maintains it was the Sheriff's Office that seized his vehicle. Among other things, plaintiff attaches to his response (Doc. 23) a copy the judgment of forfeiture entered in the Circuit Court of Crawford County, Arkansas. The judgment indicates that on **November 22, 2005**, officers of the Crawford County Sheriff's Office seized a 1998 GMC Suburban from the plaintiff.

For this reason, **the clerk is directed to substitute Sheriff Mike Allen as a defendant**

for Arkansas State Trooper Christopher Waters. The motion to dismiss (Doc. 21) is denied as moot.

The court, having heretofore entered an order allowing the plaintiff to proceed *in forma pauperis*, hereby directs the United States Marshal to serve Sheriff Mike Allen. Sheriff Allen may be served at the Crawford County Sheriff's Office.

Sheriff Allen is to be served without prepayment of fees and costs or security therefor. Sheriff Allen is ordered to answer within twenty (20) days from the date of service.

Sheriff Allen is directed to identify for the court the officers involved in the seizure of the vehicle from the plaintiff on or about November 22, 2005.

IT IS SO ORDERED this 17th day of March 2009.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE