

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

JAMES EDWARD KIRBY

PLAINTIFF

v.

Civil No. 08-2063

DEPUTY WATERDOWN;
DEPUTY ISREAL BURGOS; SHERIFF
MIKE ALLEN; and JAIL ADMINISTRATOR
JEFF MARVIN

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, James Edward Kirby (hereinafter Kirby), filed this civil rights action pursuant to the provisions of 42 U.S.C. § 1983. He proceeds *pro se* and *in forma pauperis*.

On August 10, 2009, Kirby filed a motion to dismiss (Doc. 23). In the motion, Kirby states he does not wish to go forward with this case. Defendants have orally advised the court they have no objection to the motion.

Accordingly, I recommend that the motion (Doc. 23) be granted and this case be dismissed with prejudice.

The parties have ten 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 2nd day of September 2009.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE