

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

REX LEE RITCHIE

PLAINTIFF

v.

Civil No. 08-2066

LT. CUPP, Crawford County
Detention Center; JEFF MARVIN,
Jail Administrator, Crawford
County Detention Center; and
SHERIFF MIKE ALLEN

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

On June 20, 2008, a *pro se* civil rights complaint was filed on behalf of Rex Lee Ritchie, Billy Nelson, and James E. Kirby under 42 U.S.C. § 1983 in the Eastern District of Arkansas. The case was ordered transferred to this court as it involved actions that occurred at the Crawford County Detention Center and was against Lt. Cupp, Jeff Marvin, and Sheriff Marvin, of Crawford County and/or the Crawford County Detention Center.

As noted above, the complaint was initially filed on behalf of three plaintiffs. No applications to proceed *in forma pauperis* (IFP) were submitted and no filing fee was paid. For this reason, on July 21st an order was entered (Doc. 6) directing the court clerk to mail each plaintiff an IFP application. Plaintiffs were given until August 13, 2008, to complete, sign, and return the IFP application or pay the \$350 filing fee. Plaintiffs were advised that failure to return the completed IFP application or pay the \$350 filing fee by August 13, 2008, would result in the complaint becoming subject to summary dismissal for failure to obey an order of the court.

No response was made to the court's order by any of the three plaintiffs. A report and recommendation was entered on August 21, 2008 (Doc. 7), recommending dismissal of the case.

On September 26, 2008, Ritchie filed objections (Doc. 8). On October 7, 2008, an order was entered adopting the report and recommendation in part (Doc. 9). Specifically, the claims of Billy Nelson and James Kirby were dismissed. The clerk was directed to mail Ritchie another IFP application. Ritchie was given until October 20, 2008, to complete the application.

On October 14, 2008, Ritchie filed a notice of change of address (Doc. 10). That same day, all mail that had been returned as undeliverable was sent to the address provided by Ritchie. (docket entry on 10/14/2008). On October 20, 2008, the court received all mail back marked as undeliverable-- "moved left no address."

Ritchie has not contacted the court since October 14, 2008. He has not filed the IFP application or paid the filing fee. He has not provided the court with an address.

I therefore recommend that this case be dismissed based on the plaintiff's failure to prosecute and his failure to obey an order of the court. Fed. R. Civ. P. 41(b).

Ritchie has 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. Ritchie is reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 20th day of April 2009.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE