

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

ROBERT S. PHILPOTT

PLAINTIFF

v.

Case No. 10-2061

LT. PLAINTIFF, Van Buren
Police Department (VBPD), *et al.*

DEFENDANTS

ORDER

Now on this 24th day of May 2011, there comes on for consideration the report and recommendation filed on May 12, 2011, by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas (doc. 33). Also before the Court are Plaintiff's Objections (doc. 34).

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. In his motion, Plaintiff contends he never received the notice (doc. 29) sent in connection with Defendants' summary judgment motion. Accordingly, the Court declines to adopt the report and recommendation. The U.S. District Clerk is directed to re-mail the notice (doc. 29), and Plaintiff is advised he must return the notice by June 10, 2011. Should Plaintiff fail to timely return the notice, his case will be subject to summary dismissal for failure to obey the order of this Court and failure to prosecute this action.

IT IS SO ORDERED.

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