

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

TOM EDWARD HENDERSON

PLAINTIFF

v.

Case No. 2:12-CV-02121

STEPHEN TABOR, Circuit Judge;  
RAY SPRUELL, Chief Public Defender;  
and ERIC WILLIAMS, Police Officer

DEFENDANTS

**ORDER**

Currently before the Court is the Report and Recommendation (Doc. 7) filed in this case on July 6, 2012, by the Honorable James R. Marschewski, Chief United States Magistrate for the Western District of Arkansas. The objection period has passed without objections being filed by any party.<sup>1</sup>

The Court has reviewed this case and, being well and sufficiently advised, finds as follows: The Report and Recommendation is proper and should be and hereby is **ADOPTED IN ITS ENTIRETY**. Accordingly, for the reasons stated in the Magistrate Judge's Report and Recommendation, IT IS ORDERED that Plaintiff's Motion for Leave to proceed *in forma pauperis* (Doc. 2) is **DENIED** and Plaintiff's Complaint is **DISMISSED WITH PREJUDICE** on the grounds that his claims are frivolous, fail to state claims, or seek relief from a defendant who is immune from suit.

IT IS FURTHER ORDERED that Plaintiff's Motion to Appoint Counsel (Doc. 7) is **DENIED**, as Plaintiff's claims have been found to be subject to dismissal upon preliminary review,

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<sup>1</sup> The Court notes that the Report and Recommendation originally mailed to Plaintiff was returned marked as undeliverable. Once the Court received notice of a change of address for Plaintiff, the Report and Recommendation was resent on July 19, 2012. Plaintiff has not filed any objections since that date. Plaintiff did, however file a Motion to Appoint Counsel (Doc. 7) on July 31, 2012, but such Motion contains no objections regarding the Report and Recommendation.

and the Court otherwise finds that assistance of counsel is not warranted or necessary in this case.

Furthermore, the Court finds that this case should be counted as a strike under 28 U.S.C. § 1915(g). As such, the Clerk is directed to place a § 1915(g) strike flag on the case.

IT IS SO ORDERED this 3rd day of December, 2012.

*/s/ P. K. Holmes, III*

P.K. HOLMES, III  
CHIEF U.S. DISTRICT JUDGE