

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

BISHMAEL H OBAMAS

PLAINTIFF

v.

Case No. 2:13-CV-02246

MIKE GODFREY, Sheriff, Polk County, Arkansas;
DEPUTY SCOTT SAWYER; MS. VICKI, Chief
Jailer, JAILER MR. DEWAYNE

DEFENDANTS

ORDER

Before the Court is a report and recommendation (Doc. 7) by Chief United States Magistrate Judge James R. Marschewski. Also before the Court are Plaintiff Bishmael H. Obamas' objections (Doc. 9), which were also filed as a motion to amend complaint (Doc. 8).

The Magistrate recommends dismissal of this action due to the running of the applicable statute of limitations. Mr. Obamas originally alleged in his amended complaint (Doc. 5), that the relevant events complained of occurred in 2009. Mr. Obamas now states that the dates in his amended complaint were incorrect, and he moves to amend his complaint to reflect that the events occurred in 2011. Mr. Obamas also attaches grievance letters to the Polk County Sheriffs Department, which purport to show that they were sent in 2011 and 2012.

“The court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). Taking as true Mr. Obamas' statement that the dates in the amended complaint were erroneous, the Court declines to adopt the report and recommendation (Doc. 7) of the Magistrate, and GRANTS Mr. Obamas' motion to amend complaint (Doc. 8).

The Clerk of Court is directed to file Mr. Obamas' motion (Doc. 8) as his second amended complaint. The Clerk of Court is further directed to re-refer this matter to the Magistrate for consideration of the second amended complaint.

IT IS SO ORDERED this 9th day of January, 2014.

P. K. Holmes, III

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