

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

DANIEL RAY BROWN

PLAINTIFF

v.

Civil No. 10-3052

SHERIFF DANNY HICKMAN;
JASON DAY, Jail Administer,
Boone County Detention Center;
and BOONE COUNTY, ARKANSAS

DEFENDANTS

ORDER

Pending before the court are the following motions filed by the plaintiff: (1) a motion to amend the complaint (Doc. 11); (2) a motion for writ of mandamus (Doc. 12); (3) a motion for jury trial (Doc. 13); (4) a motion to amend the complaint (Doc. 16); and (5) a motion for default judgment (Doc. 17). Each motion will be addressed in turn.

Motion to Amend (Doc. 11)

In this motion, plaintiff seeks to amend his prayer for damages to include specific sums he is seeking in compensatory damages and punitive damages. The motion (Doc. 11) is granted. **The clerk is directed to file the motion to amend as a supplement to the complaint.**

Motion for Writ of Mandamus (Doc. 12)

In this motion, plaintiff states he was approached by defendant Jason Day after he had been served. Plaintiff asserts the defendants have been wrongfully taking money for “pay for stay” pursuant to an ordinance. He asks the court to issue an order to stop the defendants from taking funds from inmates’ accounts. He also asks that a federal investigation occur.

A writ of mandamus is regarded as an extraordinary remedy to be invoked only in drastic

situations. *In re Lane*, 801 F.2d 1040, 1042 (8th Cir. 1986). “A federal court is justified in issuing a writ of mandamus, therefore, only if a petitioner is able to establish a ‘clear and indisputable right’ to the relief sought, the defendant has a nondiscretionary duty to honor that right, and the petitioner has no other adequate alternative administrative or judicial remedy.” *Id.* (citation omitted).

Plaintiff is not incarcerated in the Boone County jail. Thus, he can no longer be approached by the defendants and no funds are being taken from his account. The motion (Doc. 12) is denied.

Motion for Jury Trial (Doc. 13)

The demand for a jury trial was timely filed by the plaintiff. **The clerk is directed to note on the docket sheet that plaintiff has demanded a jury trial.**

Motion to Amend (Doc. 16)

In this motion, plaintiff asks to amend the complaint to state that he is suing the defendants in both their individual and official capacities. The motion (Doc. 16) is granted. **The clerk is directed to note on the docket sheet that each defendant is being sued in both their individual and official capacities.**

Motion for Default Judgement (Doc. 17)

Plaintiff maintains the defendants failed to file their answer within twenty-one days of being served. He asserts the answer should have been filed by August 3rd.

The motion (Doc. 17) is denied. The answer was filed by the defendants on July 27, 2010 (Doc. 14).

IT IS SO ORDERED this 24th day of September 2010.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
CHIEF UNITED STATES MAGISTRATE JUDGE