

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

GLEN RAY BENEST

PLAINTIFF

v.

Civil No. 4:09-cv-04021

SHERIFF RON STOVALL;
CHARLES NEFF, Administrator; and
GARY TURNER, Head of Security

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

The Plaintiff, Glen Ray Benest (hereinafter Benest), filed this action pursuant to the provisions of 42 U.S.C. § 1983. He proceeds *pro se* and *in forma pauperis*. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3)(2007), the Honorable Harry F. Barnes, United States District Judge, referred this case to the undersigned for the purpose of making a report and recommendation.

When he filed the complaint, Benest was incarcerated in the Miller County Detention Facility. On June 2, 2009, Benest provided the court with a change of address (Doc. 10). The address provided was a private address, 3903 E. Broad, Texarkana, AR 71854.

On June 10, 2009, mail sent to Benest by the Court was returned by the United States Postal Service marked: "Undeliverable as Addressed." On August 12, 2009, mail sent to Benest by the Court was again returned as undeliverable. On October 28, 2008, Defendants' filed a notice (Doc. 16) indicating that mail they sent to Benest had also been returned as undeliverable.

The Court has not had a valid address on Benest since June. I therefore recommend that this case be dismissed based on Benest's failure to prosecute and his failure to keep the Court and opposing counsel informed of his current address. Fed. R. Civ. P. 41(b).

The parties have fourteen (14) 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. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 8th day of December 2009.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE