

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

BILLY JOE DENHAM, JR.

PLAINTIFF

v.

CASE NO.: 4:09-cv-04087

LARRY MARION, Nashville
Police Department, Nashville, Arkansas

DEFENDANT

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Now before the Court is the Motion to Dismiss (Doc. 3) filed by the Plaintiff in this action. Plaintiff states he has named the incorrect Defendant and has initiated additional litigation naming the correct parties. Plaintiff seeks to voluntarily dismiss his case, and the Court has construed this request as a Motion to Dismiss pursuant to Rule 41 (a) (1) (i) of the Federal Rules of Civil Procedure.

Upon due consideration, and upon the motion of the Plaintiff, it is the recommendation of the undersigned that this case be DISMISSED without prejudice. **The parties have ten 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.**

IT IS SO ORDERED this 12th day of November 2009.

/s/ Barry A. Bryant

HON. BARRY A. BRYANT

UNITED STATES MAGISTRATE JUDGE