

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

LANEY HARRIS

PLAINTIFF

VS.

CASE NO. 4:11-CV-4124

CITY OF TEXARKANA, ARKANSAS;
N. WAYNE SMITH; N. WAYNE SMITH (MAYOR);
LONDELL WILLIAMS; CHAD DOWD;
JAMES MIKE JONES; SUE JOHNSON;
CLINTON S. THOMAS; RICHARD V. HALL JR.;
and ELIZABETH J. HICKS

DEFENDANTS

ORDER

Before the Court Plaintiff's Motion to Reconsider. (ECF No. 45). Defendants have not filed a response to the motion, and the time to do so has passed. The Court finds this matter ripe for consideration.

On July 22, 2014, a Report and Recommendation was issued by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 41). Judge Marschewski recommended that Plaintiff's Motion to File Second Amended Complaint (ECF No. 37) be denied. Specifically, Judge Marschewski found that Defendants would be prejudiced by the amendment and that Plaintiff's proposed amendments would be futile. Two weeks passed without objections being filed by Plaintiff. The Court adopted the Report and Recommendation *in toto* and denied the Motion to File Second Amended Complaint. (ECF No. 43).

In his present Motion to Reconsider, Plaintiff states that he never received the Report and Recommendation and was therefore unable to file objections. Plaintiff's motion also argues that Judge Marschewski was incorrect in his assessment that the Defendants would be prejudiced by an

amendment to Plaintiff's Complaint at this late stage in the proceedings.

Taking as true Plaintiff's statements regarding the non-receipt of the Report and Recommendation, the Court's decision regarding the amendment will not be altered. Upon *de novo* review of the Report and Recommendation, the Court finds no error by Judge Marschewski. Even if the Court assumes Defendants will not be prejudiced by an amendment, Plaintiff's proposed amendments are still futile. On this ground alone, the denial of the Motion to File Second Amended Complaint was justified. Accordingly, Plaintiff's Motion to Reconsider (ECF No. 45) should be and hereby is **DENIED**.

IT IS SO ORDERED, this 17th day of September, 2014.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge