

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

DON EARL LEWIS

PLAINTIFF

v.

Civil No. 4:12-cv-04100

MARTY BRAZELL; and  
ERICA CALLWOOD

DEFENDANT

DON EARL LEWIS

PLAINTIFF

V.

CIVIL NO. 4:12-cv-04139

STEPHEN WARD

DEFENDANT

**ORDER**

Plaintiff, Don Lewis, proceeds *pro se* and *in forma pauperis* in this section 1983 case. On September 18, 2013, the Honorable Susan O. Hickey adopted the undersigned's Report and Recommendation denying Defendant Brazell's Motion for Summary Judgment in order to obtain updated briefing from the parties. Since this Order this case has been consolidated with Civil No. 4:12-cv-04139 adding Defendant Stephen Ward.

Accordingly, the Court now **DIRECTS** Defendants Brazell, Callwood and Ward to file Motions for Summary Judgment specifically including (1) analysis on the recent United States Supreme Court opinion, *Maryland v. King*, \_\_ U.S. \_\_, 133 S.Ct. 1958 (2013) (addressing the issue of whether taking and analyzing a cheek swab of an arrestee's DNA, after an arrest for a serious offense supported by probable cause, is a reasonable search under the Fourth Amendment); and (2) address the issue of whether this Court should certify a question to the

Arkansas Supreme Court requesting construction of Arkansas Code Annotated section 12-12-1006 as it applies to the instant set of facts—specifically, whether section 12-12-1006 authorizes the taking of an arrestees’ DNA sixteen (16) days after he has been arrested and booked into a detention facility. Defendants shall file these Motions no later than **June 9, 2014.**

**IT IS SO ORDERED** this **7th day of April 2014.**

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