

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

WILLIE MIXON

PLAINTIFF

v.

Case No. 4:13-cv-04099

SERGEANT JOHNNY WELCH

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed April 28, 2015 by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 19). Judge Marschewski recommends that Plaintiff's Amended Complaint (ECF No. 9) be dismissed without prejudice. Plaintiff Willie Mixon has objected to the Report and Recommendation. (ECF No. 20). The Court finds this matter ripe for its consideration.

In Plaintiff's Amended Complaint, he claims Defendant Welch violated his constitutional rights by using excessive force against him through the use of pepper spray. (ECF No. 9). The summons issued for Defendant Welch was returned unexecuted. (ECF No. 13). The Marshal noted that Defendant Welch was believed to be working offshore and was "not reachable." (ECF No. 13). The Court issued an Order directing Plaintiff to provide a proper address for service on Defendant Welch. Plaintiff did not provide an address. Judge Marschewski recommends that this case be dismissed without prejudice for failure to effectuate service.

Plaintiff objects, asserting that the Miller County Detention Center should be responsible for providing the information regarding where the Defendant may be served.¹ However, it is Plaintiff's responsibility to provide the Court with a proper address for service. *See Lee v. Armontrout*, 991

¹Plaintiff makes other arguments in his objections regarding the merits of his § 1983 claim. Because the merits of the claim are irrelevant to the question of service of process, these arguments will not be addressed.

F.2d 487, 489 (8th Cir. 1993). Plaintiff's objections should be overruled.

Accordingly, the Report and Recommendation is adopted *in toto*. For the reasons stated in the Report and Recommendation, as well as the reasons stated herein, Plaintiff's Amended Complaint (ECF No. 9) is hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 15th day of May, 2015.

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