

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

LARRY D. WILLIAMS

PLAINTIFF

v.

Case No. 4:15-cv-04064

DR. ROBERT BOWERS, Wadley
Regional Medical Center; and
SHERIFF RON STOVALL, Miller
County, Arkansas

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed October 21, 2015 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 7). Judge Bryant recommends that all claims brought pursuant to 42 U.S.C. § 1983 against Defendant Dr. Robert Bowers be dismissed. Plaintiff filed objections to the Report and Recommendation seven days after the time set by the Court for objections to be filed. (ECF No. 10). While Plaintiff's objections were filed late, the Court has elected to consider them. After reviewing the record *de novo*, the Court adopts Judge Bryant's Report and Recommendation as its own.

In order for a § 1983 claim to survive dismissal, Plaintiff must first allege that a defendant acted under color of state law and that they violated a right secured by the Constitution. *West v. Atkins*, 487 U.S. 42 (1988). Plaintiff's Complaint does not set forth facts to show that Dr. Bowers acted under the color of state law. Plaintiff alleges that he received insufficient medical treatment from Dr. Bowers, but does not show how he is a state actor. In order to be successful on this claim, Plaintiff must allege facts that show that Dr. Bowers was employed by the Miller County Sheriff's Office, that he acted pursuant to a contract with Miller County, or that he was under the direction or control of the Miller County Sheriff's Office. Plaintiff makes no such allegations. For this

reason, the Court finds that dismissal is appropriate as to Plaintiff's claims against Dr. Bowers.

The Court overrules Plaintiff's objections and adopts Judge Bryant's Report and Recommendation (ECF No. 7) *in toto*. For the reasons stated above, as well as those contained in the Report and Recommendation, Plaintiff's claims against Defendant Dr. Robert Bowers should be and hereby are **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 8th day of January, 2016.

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