

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

CHARLES SAMUEL JOHNSON, JR.

PLAINTIFF

v.

Case No. 4:16-cv-4109

CORPORAL TEFT, OFFICER RODRIGUEZ  
CORPORAL HENSLEY, SERGEANT MOON,  
CORPORAL GRIFFIE<sup>1</sup>

DEFENDANTS

**ORDER**

Before the Court is the Report and Recommendation filed January 9, 2018, by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 35). No party has objected to the Report and Recommendation, and the time to object has passed. *See* 28 U.S.C. § 636(b)(1). The Court finds the matter ripe for consideration.

Judge Marschewski states that Defendants Teft, Rodriguez, and Hensley have filed a notice indicating that they will not be filing a summary judgment motion in this case. The notice concedes that there are genuine issues of material fact concerning whether Defendants Teft, Rodriguez, and Hensley used excessive force against Plaintiff Charles Samuel Johnson, Jr., and asks that this case be set for trial. (ECF No. 34). Accordingly, Judge Marschewski recommends that this case should be set for trial.

The Court has reviewed the case, and being well and sufficiently advised, finds that the Report and Recommendation is proper and should be adopted in its entirety. Therefore, the Court adopts the Report and Recommendation (ECF No. 35) *in toto*. The Court will set a trial date in a separate filing as to Plaintiff's claims against Defendants Teft, Rodriguez, and Hensley.

**IT IS SO ORDERED**, this 26th day of March, 2018.

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

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<sup>1</sup> Plaintiff does not appear to have served Defendants Moon and Griffie, and his time to do so has long since passed. *See* Fed. R. Civ. P. 4(m). On November 10, 2016, Plaintiff filed this lawsuit, giving him 90 days to serve all Defendants. On December 13, 2016, summons addressed to Defendants Moon and Griffie were returned unexecuted. (ECF No. 9). The record does not reflect any other attempts to serve Defendants Moon and Griffie. Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff must show perfected service on Defendants Moon and Griffie by April 10, 2018. Failure to do so will result in the Court dismissing Plaintiff's claims against Defendants Moon and Griffie.