

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

MICHAEL BENJAMIN

PLAINTIFF

v.

Civil No. 08-5134

OFFICER S. CHANDLER,
Fayetteville Police Department;
MAYOR DAN COODY; and
SHERIFF TIM HELDER

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, Michael Benjamin (hereinafter Benjamin), filed this action pursuant to the provisions of 42 U.S.C. § 1983. Because additional information was needed to determine if the complaint should be served on the defendants, the undersigned propounded a questionnaire. Benjamin's responses to the questionnaire were to be filed as an addendum to the complaint.

By order (Doc. 10) entered on August 21, 2008, Benjamin was directed to complete and sign an attached addendum to his complaint, and return the same to the court by September 22, 2008. Benjamin was advised that should he fail to return the completed and executed addendum by September 22, 2008, his complaint may be dismissed without prejudice for failure to prosecute and/or for failure to obey an order of the court.

To date, the addendum has not been filed. Benjamin has not sought an extension of time to respond to the court's questionnaire. The court's order (Doc. 10) and attached questionnaire have not been returned as undeliverable. Benjamin has not communicated with the court in anyway. I therefore recommend that this case be dismissed based on Benjamin's failure to obey the order of this court and his failure to prosecute this action. Fed. R. Civ. P. 41(b).

Benjamin has ten (10) days from receipt of this report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. Benjamin is reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 7th day of October 2008.

/s/ J. Marszewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE