

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

MICHAEL WINBERRY

PLAINTIFF

v.

Civil No. 08-5172

KEITH FERGUSON, Sheriff,
Benton County, Arkansas;
CAPTAIN HUNTER PETRAY,
Jail Administrator, Benton County
Detention Center

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, Michael Winberry, filed this civil rights action pursuant to the provisions of 42 U.S.C. § 1983 on July 31, 2008. He proceeds *pro se* and *in forma pauperis*.

An order was entered directing service on the defendants (Doc. 4). However, to date no returns of service have been filed indicating defendants have been served and no answer has been filed on defendants behalf.

On September 26, 2008, Winberry filed a motion to voluntarily dismiss the case (Doc. 5). I recommend that the motion be granted.

Winberry has ten days from receipt of the 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. Winberry is reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 29th day of September 2008.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE