

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

ASSEFA GABREL EGZIABHER, JR.

PLAINTIFF

v.

Civil No. 11-5048

CHARLIE PEARCE, ET AL.

DEFENDANTS

O R D E R

NOW on this 28th day of April 2011, comes on for consideration the **Magistrate Judge's Report and Recommendation** (Doc. 8) and Defendant's objection thereto (Doc. 9). The Court, being well and sufficiently advised, finds and orders as follows:

1. Plaintiff was arrested by the Fayetteville Police Department on November 18, 2010, and is charged by the State of Arkansas with possession with the intent to manufacture methamphetamine. Plaintiff is currently being held in Washington County Jail.

Plaintiff brought this lawsuit against his attorney, the deputy prosecutors and two Fayetteville police officers asserting claims that he was illegally searched and arrested, that the charges against him are false and that his attorney filed a motion to suppress on his behalf against his wishes.

The Court has carefully reviewed the Magistrate Judge's Report and Recommendation and finds that it is sound in all respects and that plaintiff has failed to state a claim for which relief could be granted in this case. Plaintiff has stated no facts or law to refute said recommendation.

Therefore, the Court finds that the Report and Recommendation should be adopted *in toto*.

2. The Court notes that plaintiff raises in his Objection (Doc. 9) his right to a speedy trial. Plaintiff complains that he has not yet received a trial date in Washington County Circuit Court. This Court has no jurisdiction to determine plaintiff's rights under Arkansas' speedy trial rules.

IT IS THEREFORE ORDERED that the Plaintiff's objections are **overruled;**

IT IS FURTHER ORDERED that the Magistrate Judge's Report and Recommendation (Doc. 9) is hereby **adopted in toto;**

IT IS FURTHER ORDERED that, for the reasons stated in the Magistrate Judge's Report and Recommendation, Plaintiff's complaint is hereby **DISMISSED**. This lawsuit shall be considered a "strike" pursuant to the so-called three-strikes provision of 28 U.S.C. § 1915 and the Clerk is directed to place an appropriate flag on this case.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
HON. JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE