

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

JOHN WAYNE BRIDGEWATER

PLAINTIFF

v.

Civil No. 11-5221

CORPORAL DAVIS; SERGEANT
FLANNIGAN; SERGEANT MCCRANIE;
DEPUTY RICHARDSON; DEPUTY
BARTLEY; and DEPUTY RICHARDS

DEFENDANTS

O R D E R

Now on this 7th day of March, 2013, come on for consideration the following:

* defendants' **Motion For Judgment On The Pleadings** (document #22);

* **Report And Recommendation Of The Magistrate Judge** ("R&R") (document #27); and

* plaintiff's **Written Objections** (document #28),
and from said documents, the Court, being well and sufficiently advised, finds and orders as follows:

1. In this suit brought pursuant to **42 U.S.C. § 1983**, plaintiff complains of verbal threats by employees of the Benton County Sheriff's Office while incarcerated and awaiting trial, and interference with his mail.

2. Magistrate Judge James R. Marschewski reported that verbal threats, barring truly exceptional circumstances presenting a threat of immediate harm, do not constitute a constitutional violation. He also reported that plaintiff had sued defendants

only in their official capacities, not their individual capacities, and had not alleged that any interference with his mail was the result of a policy, custom or practice of the Benton County Sheriff's Office. For these reasons, Judge Marschewski recommended that plaintiff's claims be dismissed.

3. Plaintiff's Objections do not fairly meet the substance of the R&R. He contends that he is "still scared," and that defendants could hurt or kill him, now or after he is released, because they might not care if they get caught. These allegations do not present the threat of immediate harm required to state a constitutional violation on the basis of mere words.

Plaintiff also contends that "all claims are legit against the defendants," and that they deprived him of his constitutional rights "by taking my mail and legal mail and throwing it away." This does not touch on the legal impediment created by the fact that defendants are not sued in their individual capacities, and that there is no allegation of a policy, custom or practice of mail violations on the part of the Benton County Sheriff's Office.

4. For the foregoing reasons, the Court finds that the R&R is sound and should be adopted; that plaintiff's Objections are without merit and should be overruled; and that defendant's Motion For Judgment On The Pleadings should be granted.

IT IS THEREFORE ORDERED that the **Report And Recommendation Of The Magistrate Judge** (document #27) is **adopted in toto**.

IT IS FURTHER ORDERED that plaintiff's **Written Objections** (document #28) are **overruled**.

IT IS FURTHER ORDERED that defendants' **Motion For Judgment On The Pleadings** (document #22) is **granted**, and plaintiff's claims are hereby **dismissed**.

IT IS SO ORDERED.

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