

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

LEON MICHAEL SMITH

PLAINTIFF

v.

Civil No. 11-5273

CPL. T. FAUBUS, Springdale  
Police Department; and OFFICER  
ARTHUR, Springdale Police  
Department

DEFENDANTS

O R D E R

Now on this 15th day of July, 2013, comes on for consideration the **Report And Recommendation Of The Magistrate Judge** (document #49), to which no objections have been made, and the Court, having carefully reviewed said Report And Recommendation, finds that it is sound in all respects, and that it should be adopted *in toto*.

**IT IS THEREFORE ORDERED** that the **Report And Recommendation Of The Magistrate Judge** is adopted *in toto*.

**IT IS FURTHER ORDERED** that, for the reasons stated in the **Report And Recommendation Of The Magistrate Judge, Defendants' Motion For Summary Judgment** (document #32) and **Defendants' Amended Motion For Summary Judgment** (document #38) are **granted in part and denied in part**.

The motions are **granted** insofar as they seek dismissal of all claims asserted against Cpl. T. Faubus, and all official capacity claims, and those claims are hereby **dismissed with prejudice**.

The motions are **denied** insofar as they seek dismissal of the individual capacity claim against Office Arthur, and this claim will be scheduled for jury trial at the Court's convenience.

**IT IS SO ORDERED.**

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