

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

AL GENE PERRY

PLAINTIFF

v.

No. 12-5134

OFFICER WILLARD; and
PATROLMAN SHANE ALLEN

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

This is a civil rights case filed under the provisions of 42 U.S.C. § 1983. Plaintiff proceeds *pro se* and *in forma pauperis*. Plaintiff contends that Defendants used excessive force against him during the course of an arrest.

This case is scheduled for an evidentiary hearing on January 7, 2014. On June 7, 2013, a scheduling order (Doc. 15) was entered. Among other things, the scheduling order provides that 45 days before the hearing the parties must submit an information sheet containing specified information about each proposed witness. Plaintiff's prompt filing of this information sheet is important as the Court issues all subpoenas and writs.

Plaintiff did not submit his information sheet. On December 18, 2013, a show cause order (Doc. 26) was entered. Plaintiff was given until December 30, 2013, to show cause why this action should not be dismissed based on his failure to comply with the requirements of the scheduling order. Plaintiff has not responded to the show cause order. The order has not been returned as undeliverable.

I therefore recommend that this case be dismissed based on Plaintiff's failure to obey the orders of the Court and his failure to prosecute this action. Fed. R. Civ. P. 41(b). By separate order the evidentiary hearing will be cancelled.

The parties have fourteen (14) 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. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 2nd day of January 2013.

/s/ Erin L. Setser

HON. ERIN L. SETSER
UNITED STATES MAGISTRATE JUDGE