

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

MARKEL EUBANKS

PLAINTIFF

V.

CIVIL NO. 5:16-CV-05276

**DEPUTY RANDALL KELLEY, Benton
County Detention Center (BCDC); DEPUTY
DORSEY, BCDC; SERGEANT RANDALL
MCELROY, BCDC; CAPTAIN LYNN HAHN,
BCDC; LIEUTENANT S. DARNER, BCDC; and
SHERIFF MEYER GILBERT**

DEFENDANTS

OPINION AND ORDER

This is a civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff proceeds *pro se* and *in forma pauperis*. On March 27, 2017, Defendants filed a Motion for Summary Judgment (Doc. 16). A hearing was held on May 9, 2017, to allow Plaintiff to testify in response to the Motion. At the conclusion of the hearing, Magistrate Judge Erin L. Wiedemann prepared a Report and Recommendation (“R&R”) (Doc. 23), which was filed on September 26, 2017. The same day that the R&R issued, the Clerk’s Office mailed a copy of the R&R to Plaintiff at his address of record, ADC - NORTH CENTRAL UNIT, 10 Prison Circle, Calico Rock, AR 72519. On October 10, 2017, the envelope containing the R&R was returned to the Court, marked “Return to Sender – Refused – Unable to Forward.” See Doc. 24.

It has now been more than 30 days since the R&R was returned as undeliverable, and in that time, Plaintiff has failed to contact the Court and provide his new address. Plaintiff was previously advised in an Order issued on October 11, 2016 (Doc. 3) that he must “immediately inform the Court of any change of address,” and that the “[f]ailure to inform the Court of an address change may result in the dismissal of the case.”

The Court has had no communication with Plaintiff since the hearing on May 9, 2017, and the case cannot proceed without Plaintiff's presence. Because Plaintiff has failed to prosecute this action and obey the orders of the Court, the case is **DISMISSED WITHOUT PREJUDICE** pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED on this 15th day of November, 2017.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE