

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

JAMES CHEATWOOD

PLAINTIFF

V.

CASE NO. 5:23-CV-5142

**LINDA DAY; WILLIAM JOHN DAY;
and SHAWN HOLLOWAY, Sheriff**

DEFENDANTS

ORDER OF DISMISSAL

Plaintiff filed the Complaint, *pro se*, on April 21, 2023, in the Eastern District of Arkansas. See Doc. 2. Originally, he moved for leave to proceed *in forma pauperis*, see Doc. 1, but before that motion could be ruled upon, he paid the \$402 filing fee on August 8, 2023. See Doc. 4. On August 23, 2023, the Honorable Kristine G. Baker ordered the case transferred to this judicial district due to improper venue. See Doc. 6.

The case is subject to dismissal for failure of service, pursuant to Federal Rule of Civil Procedure 4. Plaintiff filed the Complaint more than 180 days ago, and he paid the filing fee—and assumed the burden of service—more than 90 days ago. He never presented a summons to the Clerk for signature and seal, as required by Rule 4(b); he failed to serve each Defendant with a summons and a copy of the Complaint, as required by Rule 4(c)(1); and he failed to effect service within 90 days of filing the Complaint, as required by Rule 4(m). For all these reasons, **IT IS ORDERED** that the Complaint is hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED on this 13th day of November, 2023.

/s/ Timothy L. Brooks
TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE