

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

MARCO SIMMONS

PLAINTIFF

v.

Civil No. 6:09-cv-06054

JAMES LANGLEY, Jailer,
Clark County Jail; and
SHERIFF DAVID TURNER

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff filed this action pursuant to the provisions of 42 U.S.C. § 1983 on July 13, 2009. He proceeds *pro se* and *in forma pauperis*. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3)(2009), the Honorable Robert T. Dawson, United States District Judge, referred this case to the undersigned for the purpose of making a report and recommendation

On this same date, Plaintiff is being granted permission to amend his complaint. The amendment adds Sheriff David Turner as a Defendant. The amendment also specifies that Plaintiff is suing the Defendants in both their individual and official capacities.

This amendment renders moot many of the arguments made by the Defendants in their summary judgment motion (ECF No.15). I therefore recommend that the summary judgment motion (ECF No. 15) be denied as moot. Defendants may file a summary judgment motion after Sheriff Turner has been served and has responded to the complaint.

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 7th day of October 2010.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE