

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

JIMMY L. MEDLOCK

PLAINTIFF

VS.

CASE NO. 6:12-CV-6127

GARY MILLER and
CHIEF OF POLICE DAVID FLORY

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed August 15, 2014 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 65). Judge Bryant recommends that the parties' competing Motions for Summary Judgement (ECF Nos. 39 & 55) be denied without prejudice. Judge Bryant recommends denying the Motions for Summary Judgment in light of the fact that Plaintiff was granted leave to file a Second Amended Complaint. Judge Bryant recommends that, after Plaintiff has filed his Second Amended Complaint, the parties be permitted to re-file their summary judgment motions. The parties have not filed objections to the Report and Recommendation, and the time to object has passed. See 28 U.S.C. § 636(b)(1). Therefore, the Court adopts the Report and Recommendation *in toto*. The Motions for Summary Judgment (ECF Nos. 39 & 55) are hereby **DENIED WITHOUT PREJUDICE**. The parties may re-file their motions for summary judgment after the Second Amended Complaint is filed. The deadline for filing these motions will be set by Judge Bryant.

While Plaintiff did not file objections to the Report and Recommendation, on September 3, 2014 he filed an additional motion requesting, among other things, that he be allowed to file his Second Amended Complaint. (ECF No. 67). Accordingly, it appears that Plaintiff was not aware

of Judge Bryant's August 15 Order (ECF No. 64) granting his Motion for Leave to File Second Amended Complaint. (ECF No. 32).¹ Plaintiff's deadline for filing the Second Amended Complaint passed on August 29, 2014. However, under these circumstances, the Court finds that an extension of time is warranted. Plaintiff must file his Second Amended Complaint on or before **September 30, 2014**. The Clerk is directed to re-send Judge Bryant's Order (ECF No. 64) and Report and Recommendation (ECF No. 65).

IT IS SO ORDERED, this 10th day of September, 2014.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge

¹In that same Order, Judge Bryant denied Plaintiff's Motion for an Order Compelling Discovery (ECF No. 42); denied Plaintiff's Motion to Strike Part of the Audio Recording (ECF No. 54); and denied as moot Plaintiff's Motion Directing/Ordering Defendants Counsel (ECF No. 53).