

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Davis Totten,

Plaintiff,

v.

Case No. 11-12485

Honorable Sean F. Cox

Carron Caldwell, Raymond D. Booker,  
Tina Pope, and Marva Myles,

Defendants.

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**ORDER DISMISSING PLAINTIFF'S  
REMAINING CLAIM FOR FAILURE TO PROSECUTE**

Acting *pro se*, Plaintiff Davis Totten (“Totten”) filed this § 1983 action against Defendants Carron Caldwell (“Caldwell”), Raymond D. Booker (“Booker”), Tina Pope (“Pope”), and Marva Myles (“Myles”).

On September 14, 2011, this matter was referred to Magistrate Judge Mark Randon for determination of all non-dispositive motions pursuant to 28 U.S.C. § 636(b)(1) and Report and Recommendation pursuant to § 636(b)(1)(B) and (C). (Docket Entry No. 12).

On November 18, 2011, Defendants filed a Motion for Summary Judgment. (Docket Entry No. 17).

On June 31, 2012, Magistrate Judge Randon issued a Report and Recommendation (“R&R”) wherein he recommended that the Court grant the Defendants’ Motion for Summary Judgment in part and deny it in part. The R&R recommended that the Court deny the motion as to Totten’s claim that Defendant Caldwell violated his First Amendment right by failing to

schedule the Ed-al-Adha prayer service. The R&R recommended that all remaining claims be dismissed with prejudice. (Docket Entry No. 27).

In an Order issued on September 11, 2012, this Court adopted the R&R and dismissed all of Plaintiff's claims with prejudice, with the exception of Plaintiff's claim that Defendant Caldwell violated his First Amendment right by failing to schedule the Ed-al-Adha prayer service. That Order further ordered the parties to appear for a mandatory status conference on October 2, 2012, at 2:00 p.m. and further cautioned that **"failure to appear may result in sanctions, up to and including dismissal of this action."** (Docket Entry No. 29 at 4) (bolding in original).

Although Defendant appeared for the mandatory status conference on October 2, 2012, Plaintiff failed to appear. In addition, Plaintiff did not contact the Court prior to or after the conference and Plaintiff has taken no further action in this case.

Accordingly, IT IS ORDERED that Plaintiff's remaining claim is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: October 31, 2012

S/ Sean F. Cox  
Sean F. Cox  
U. S. District Court Judge

I hereby certify that on October 31, 2012, the foregoing document was served upon counsel of

record by electronic means and upon Davis Totten by First Class Mail at the address below:

Davis Totten  
182985  
555 E. Hume Street  
Muskegon, MI 49444

Dated: October 31, 2012

S/ J. McCoy  
Case Manager