

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

RICKY FITZGERALD HATHORN, # L-1961

PLAINTIFF

VERSUS

CAUSE NO. 4:11cv129-CWR-FKB

**NESHOPA COUNTY JAILHOUSE and
JIMMY REED**

DEFENDANTS

MEMORANDUM OPINION AND ORDER DISMISSING JAIL

BEFORE THE COURT is *pro se* Plaintiff Ricky Fitzgerald Hathorn's [1] Complaint. He is in the custody of the Neshoba County Jail. He brings this action challenging conditions of his confinement against Defendants Neshoba County Jailhouse and Jimmy Reed, the jail's administrator. The Court has considered and liberally construed the pleadings.

The jail's capacity to be sued is determined by Mississippi law. Fed. R. Civ. P. 17(b)(3). In Mississippi, a county jail is not a separate legal entity which may be sued, rather it is an extension of the county. *Tuesno v. Jackson*, No. 5:08cv302-DCB-JMR, 2009 U.S. Dist. LEXIS 61416 at *2-3 (S.D. Miss. Apr. 30, 2009). *See also, Brown v. Thompson*, 927 So. 2d 733, 737 (¶12) (Miss. 2006) (sheriff's department). Therefore, the jail is dismissed.

IT IS THEREFORE ORDERED AND ADJUDGED that, for the reasons stated above, Defendant Neshoba County Jailhouse should be and is hereby **DISMISSED WITHOUT PREJUDICE**. The case will proceed against the remaining defendant.

SO ORDERED, this the 2nd day of December, 2011.

s/Carlton W. Reeves
UNITED STATES DISTRICT JUDGE