

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

NEWTON JR COOK,

Plaintiff,

vs.

DARIN J. UPTON, JON P. BOZEMAN, JOSH  
WILLIAMS, TERRY PARKS, LEWIS  
COLLINS, BILL BOOKER and EARL  
MAXWELL,

Defendants.

No. CIV-10-445-JHP**AMENDED ORDER**

This matter comes before the Court on Defendants' Lewis Collins, Earl Maxwell and Terry Parks FED. R. CIV. P. 12(b)(6) Motion to Dismiss Plaintiffs' Complaint. (Dkt.# 28), and Defendants' Jon P. Bozeman and Josh Williams FED. R. CIV. P. 12(b)(6) Motion to Dismiss Plaintiffs' Complaint. (Dkt.# 31).<sup>1</sup>


In order to survive a motion to dismiss for failure to state a claim upon which relief can be granted, factual allegations must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true even if doubtful in fact. *Bell Atlantic Corp. V. Twombly*, 127 S.Ct. 1955, 1964-65 (2007). Yet the Court need not accept as true legal conclusions from the complaint or ““naked assertion[s]’ devoid of ‘further factual enhancement.’” *Ashcroft v. Iqbal*, \_\_\_\_ U.S. \_\_\_\_, 129 S.Ct. 1937 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. at 557) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. at 557). The Court, after careful review of the pleadings, and based upon the reasons as more fully set forth in Defendants'

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<sup>1</sup> Two defendants, Darin J. Upton and Bill Booker remain in the instant case.

Motions to Dismiss Plaintiff's Complaint (Dkt. #s 28 and 31), finds that Plaintiff has failed to meet this standard and Defendants' Motions to Dismiss are GRANTED.

**IT IS SO ORDERED** this 28th day of March, 2011.



James H. Payne  
United States District Judge  
Eastern District of Oklahoma