

IN THE CIRCUIT COURT OF PULASKI, ARKANSAS

SEAN LYNN; and
LAURA HAMMETT

PLAINTIFFS

v.

Case No. 60CV-26-216

BOARD OF TRUSTEES of the UNIVERSITY
of ARKANSAS, in their official capacity;
et al.

DEFENDANTS

**Plaintiffs' Brief in Support of Joint Opposition to Jennings R. Boyette and Sriram
Navuluri's Motion to Dismiss Each Plaintiffs' Claims**

Co-Plaintiffs Sean Lynn (“Sean”)¹ and Laura Hammett (“Laura”) joined on a complaint pursuant to Ark. R. Civ. P. 20. Their claims arise from the same two-week-long continuous transaction or occurrence and share a common nucleus of both fact and law.

Separate defendants Jennings R. Boyette and Sriram Navuluri moved the Court to dismiss all claims against them, and to make the dismissal of Sean’s claims with prejudice.

The motion to dismiss is premature because the plaintiffs' refiled extension motion is pending per the Court's own invitation; any dismissal must be without prejudice because Sean

¹ Common names are used because UAMS employees wrote versions of Laura Lynn in the medical report, and using “Lynn” may be confusing.

Lynn's § 1983 claims—not yet asserted in any proceeding—carry a three-year statute of limitations that has not expired. The caselaw strongly supports denial of the motion, or in the alternative, dismissal without prejudice only.

I. The Motion to Dismiss Is Premature While the Plaintiffs' Refiled Extension Motion Is Pending.

Under Arkansas Rule of Civil Procedure 4(i), service must be accomplished within 120 days of filing the complaint, but a plaintiff may move within that period to extend time upon a showing of good cause. *Henyan v. Peek*, 359 Ark. 486, 199 S.W.3d 51 (2004). Critically, the Court's May 12, 2026 Order expressly authorized the plaintiffs to refile their timely filed extension motion with greater specificity, and plaintiffs did so on May 19, 2026—within seven days, well inside any reasonable reading of the Court's invitation.

Boyette and Navuluri filed their motion to dismiss while that refiled motion remained pending and undecided. The Court should rule on the extension motion first. A motion to dismiss predicated on a service defect that is the subject of a pending and court-authorized motion for extension is simply premature. As *Henyan* makes clear, the circuit court has authority and jurisdiction to act on a timely extension motion; that authority should be exercised before entertaining dismissal. *Henyan*, 359 Ark. at 491, 199 S.W.3d at 53. The *Henyan* Court found a lack of any cause shown in the first three untimely motions, and a poor excuse offered after the motions were filed. *Id.* The plaintiff is not required to “get an extension of time from this Court” in 120 days. It is required that a motion be made; the Court then has discretion to entertain an amendment.

Furthermore, *Hawkins-Luckett v. Crossett Health Foundation*, 2024 Ark. App. 539 (2024) illustrates by contrast that courts examine the sufficiency of good-cause showings in extension motions on their merits—a process that cannot occur if a motion to dismiss is granted

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before the extension motion is resolved. Defendants' tactic of moving to dismiss while the extension motion is pending, without even acknowledging the Court's May 12 Order permitting refiling, should be viewed unfavorably by the Court.

II. Any Dismissal Must Be Without Prejudice Because Sean Lynn's § 1983 Statute of Limitations Has Not Expired.

Arkansas Rule of Civil Procedure 4(i)(1) mandates that dismissal for failure to timely serve is without prejudice. The sole recognized exception—where dismissal without prejudice operates effectively as dismissal with prejudice—arises only when all applicable limitations periods have already run so that refiling is impossible. *McCue v. Dominguez*, 2022 Ark. App. 332, 13, 53 S.W.3d 372, 380. That exception does not apply here.

Sean Lynn's potential § 1983 claims against Boyette and Navuluri have never been asserted in any proceeding. They arise from the same underlying conduct as the medical negligence claims but are governed by Arkansas's three-year personal injury statute of limitations, which the Eighth Circuit has consistently applied to § 1983 claims in Arkansas. *Hill v. Reyes*, 344 Fed.Appx. 291 (2009). A deprivation of constitutional rights is significantly different from and more serious than a violation of a state right, such as the right to be free from medical injury, and therefore deserves a different remedy even though the same act may constitute both a state tort and the deprivation of a constitutional right. *Glasscoe v. Howell*, 431 F.2d 863, 865 (8th Cir. 1970).

Because those claims have not yet been filed and the three-year period has not expired, there is no basis for dismissal with prejudice. Defendants' request that medical negligence claims be dismissed with prejudice cannot be bootstrapped into preclusion of the § 1983 claims, which are legally distinct, governed by a different limitations period, and have never been litigated.

In *McCoy*, cited by Boyette and Navuluri, The Friday Firm represented the UAMS doctor defendants, including a defendant in this case, Dr. Mary Katherine Kimbrough. Associate General Counsel Sherri Robinson represented the nurse defendants. *McCoy v. Robertson*, 2018 Ark. App. 279, 550 S.W.3d 133. *McCoy* is differentiated from this case because McCoy alleged run-of-the-mill medical negligence resulting in paralysis. *McCoy*, 2018 Ark. App. 279, 1, 550 S.W.3d 33, 34. There were no allegations of false imprisonment or exposing the captives genitals with no articulated reason. See *id.* McCoy did not have a viable claim for deprivation of rights, as Sean has.

Further, all the *McCoy* doctors were able to establish insufficient service of summons. See *id.* In fact, one defendant's certified mailing was signed for by a third party, invalidating it. *Id.*, at 16. This indicates that service on Dr. Natalie J. Applebaum in this case should probably be attempted again, even though her certified mail was signed for by a third party. *Br. in supp. of mot. for an extension of time to serve summonses* at 3 (differentiated though because McCoy mailed the defendant's process to his work, instead of a home address as Sean and Laura used for Natalie J. Applebaum).

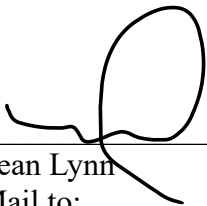
Also, Boyette and Navuluri informed the Court that "no extension of service time was ever granted" in *McCoy*. *Boyette/Navuluri Br. in Supp. Mot. Dismiss*, at 3. What they left out is that McCoy never filed a motion for extension of time to serve. He claimed that he thought service was proper, based on speaking with UAMS associate general counsel Robinson, who confirmed she had received the service packets for all the defendants, including the doctors. *McCoy*, 2018 Ark. App. at 5, 550 S.W.3d at 36.

III. The Court Detests an Absurdity, Such As Granting a Motion to Dismiss Claims of Confinement Without Due Process Based on an Unartfully Written Motion.

The defendants' own zealous use of procedural process—filing this motion while ignoring the Court's May 12 Order—is relevant context. This conduct is admissible as evidence in future proceedings that Boyette and Navuluri were fully aware of their own procedural rights while denying due process protections to Sean Lynn under Ark. Code Ann. §§ 20-9-604, 20-47-207, 20-47-209(a)(1), 20-47-210, 20-47-211, and 20-47-220.

Wherefore the plaintiffs ask that Jennings R. Boyette and Sriram Navuluri's motion to dismiss be denied, or if granted, that all claims are dismissed without prejudice. The plaintiff pray that whether their civil claims are dismissed or not, that this Honorable Court will refer the allegations of criminal false imprisonment by Dr. Boyette and Dr. Navuluri to an appropriate prosecutorial agency.

Respectfully Submitted,



Sean Lynn
Mail to:
16 Gold Lake Club Road
Conway, Arkansas 72032
(213) 716-5231
SeanLynnP@yahoo.com

May 28, 2026

/s/ Laura Hammett

May 28, 2026

Laura Hammett, in pro se
16 Gold Lake Club Road
Conway, Arkansas 72032
(760) 966-6000
Bohemian_books@yahoo.com

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Certificate of Service

I, Laura Hammett, hereby certify that on May 28, 2026, I entered for filing the foregoing electronically with the Clerk of Court using the Arkansas Judiciary Electronic Filing System, which shall send notification to all attorneys in this matter. I will also deliver a file stamped copy by email to Plaintiff Sean Lynn who joined in this motion at SeanLynnP@yahoo.com.

/s/ Laura Hammett

Laura Hammett

16 Gold Lake Club Road

Conway, Arkansas 72032

(760) 966-6000

Bohemian_books@yahoo.com