# United States Court of Appeals
## FOR THE EIGHTH CIRCUIT

No. 07-2900

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| Archie Moore Coates, | * | |
| | * | |
| Appellant, | * | |
| | * | Appeal from the United States |
| v. | * | District Court for the |
| | * | Eastern District of Arkansas. |
| John Does, Pulaski County Jail Medical | * | |
| Staff; Pulaski County Regional | * | [UNPUBLISHED] |
| Detention Facility; Mates, Sgt., Pulaski | * | |
| County Jail; Woody Brawley, Deputy, | * | |
| Pulaski County Detention Center, | * | |
| | * | |
| Appellees. | * | |

Submitted: August 4, 2008
Filed: August 7, 2008

Before WOLLMAN, SMITH, and GRUENDER, Circuit Judges.

PER CURIAM.

Archie Coates appeals the district court's[1] dismissal of his 42 U.S.C. § 1983 complaint. After careful review, we conclude that dismissal was proper. See Choate

[1]The Honorable J. Leon Holmes, Chief Judge, United States District Court for the Eastern District of Arkansas, adopting the findings and recommendations of the Honorable Henry L. Jones, Jr., United States Magistrate Judge for the Eastern District of Arkansas.

v. Lockhart, 7 F.3d 1370, 1373 & n.1 (8th Cir. 1993) (standards for reviewing district court's findings and conclusions after evidentiary hearing under 28 U.S.C. § 636(b)(1)(B)). Accordingly, we affirm the dismissal of Coates's complaint, but we modify it to be without prejudice as to defendant Mates. See Fed. R. Civ. P. 4(m) (providing for dismissal without prejudice as to unserved defendant).[2] We also deny as moot Coates's motion for appointment of counsel on appeal. See 8th Cir. R. 47B.

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[2]We also note that--to the extent any "John Doe defendants" remain in this lawsuit--they were never served. See Young v. Mt. Hawley Ins. Co., 864 F.2d 81, 83 (8th Cir. 1988) (per curiam) (where only unserved defendants remain in action, judgment is final appealable order).