

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION

TAMMY TILLERY

PLAINTIFF

v.

No. 1:16-cv-69-DPM

WENDY LYNNE KELLEY, in her individual and official capacity as the Director of the Arkansas Department of Correction; DEXTER L. PAYNE, in his individual and official capacity as Deputy Director of the ADC; STEPHEN D. WILLIAMS in his individual and official capacity as Warden of the North Central Unit of the ADC; and BILLY W. INMAN, in his individual and official capacity as Deputy Warden of the North Central Unit of the ADC

DEFENDANTS

ORDER

1. The Court notes the motion for a temporary restraining order and preliminary injunction. *No. 9*. The request for a TRO is denied. The challenged restrictions have been in place for more than two-and-a-half months, including the nearly two months since Tillery filed suit. *No. 1 at ¶¶ 23–24*. She still communicates with her husband by email and regular mail, albeit with some delays. She contends these delays target her, while ADC says it's only standard screening, which encumbers all prisoners and their correspondents. *No. 10 at 20, 31; No. 9 at 79*. Whatever the truth may be

about that, marital communication hasn't been stopped completely. It's unnecessary, therefore, to engage the machinery of Rule 65(b) and act before the defendants are heard. Nor has Tillery given the Court a sufficient procedural basis to do so — there's no "affidavit or a verified complaint clearly show[ing]" many of the things alleged. FED. R. CIV. P. 65(b)(1)(A). Her declaration, *No 13*, doesn't cover this ground.

2. The defendants' motion for extension, *No 12*, is granted; Tillery's motion to expedite, *No 14*, is granted too. The defendants need time to respond to Tillery's thorough motion. But she's right that this case needs deciding sooner rather than later. Defendants' must file any response to the motion by 12 September 2016. The Court sets a one-day consolidated preliminary injunction hearing/trial on the merits for 20 December 2016. Each side will have three hours to present proof and argument. The parties should propose an expedited discovery plan in their Rule 26(f) report, which is due 2 September 2016. The Court suggests shortening the time for responding to written discovery, as well as scheduling now any needed depositions in October.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

12 August 2016