

**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 ADC; 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**

For the reasons stated on the record at the status conference on 8 September 2016, the Court resolves the discovery disputes as follows:

1. Mrs. Tillery may meet with Mr. Tillery once for two hours at the Calico Rock facility for trial preparation. During this meeting no privilege of confidential marital communications will exist.

2. Defendants' deposition of Mr. Tillery at the Calico Rock facility will take place before Mrs. Tillery's meeting with him.

3. The depositions of Mr. Tillery and Mrs. Tillery shall both be taken under seal. All objections based on the privilege of confidential marital

communications are reserved. Neither Mr. Tillery nor Mrs. Tillery may assert this privilege to avoid answering a deposition question about the claims and defenses in this case. As the Court noted at the hearing, and as Mrs. Tillery recognized, all her post-suspension communications with Mr. Tillery have been or are monitored by the ADC; so there is no privilege in them. Mrs. Tillery may not assert the privilege for Mr. Tillery at his deposition. Mrs. Tillery may assert the privilege for herself on written motion – with specific citations to one of the depositions – and argument. Due dates for this motion and a response will be set in the Final Scheduling Order. The parties must file all papers on the privilege issues under seal. The request for a protective order embedded in the Rule 26(f) report is otherwise denied.

4. If Mrs. Tillery decides to file for *in forma pauperis* status, she may do so under seal.

5. The Court adopts the parties' proposed discovery schedule, expedited discovery response times, and electronic service obligations. *No 21 at ¶¶4, 5 & 11.*

So Ordered.

*D.P. Marshall Jr.*

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D.P. Marshall Jr.  
United States District Judge

*13 September 2016*