

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

JIMMY SHANE CANTRELL,
ADC #98730

PLAINTIFF

v.

2:09CV00184BSM/JTK

MIKE BEEBE, et al.

DEFENDANTS

ORDER

This matter is before the Court on the motion to sever, filed by Defendants Correctional Medical Services, Inc. (CMS), Yarbrough, Anderson, and Hughes (hereinafter referred to as the “medical defendants”) (Doc. No. 115). Plaintiff has not filed a response to the motion.

In support of the motion, the medical defendants state Plaintiff’s allegations against them (together with defendants Kelley and Norris), concern their deliberate indifference to his medical needs involving a prosthetic eye. Defendants state these claims are different and distinct from Plaintiff’s claims against numerous other defendants, which concern Plaintiff’s conditions of confinement, parole eligibility, and processing of legal mail. Defendants state pursuant to Fed.R.Civ.P. 20, those claims do not arise out of the same transaction or occurrence as Plaintiff’s medical claims, and therefore, they are not properly joined and should be severed. Finally, Defendants state severing such claims would promote convenience and expedite resolution of Plaintiff’s claims.

The Court recognizes the diverse nature of Plaintiff’s claims against all Defendants, and the fact that the claims do not all arise out of the same occurrences or transactions. However, the Court also notes that this case is scheduled for a Pre-Jury Evidentiary Hearing, at which time the Court will determine whether Plaintiff can submit a case to the jury on his claims against Defendants. In light of that hearing, the Court will deny Defendants’ motion at this time. However, following the hearing, Defendants may renew their motion, if appropriate.

Accordingly,

IT IS, THEREFORE, ORDERED that Defendants' motion to sever (Doc. No. 115) is hereby DENIED without prejudice.

IT IS SO ORDERED this 8th day of September, 2010.



UNITED STATES MAGISTRATE JUDGE