May v. USA et al Doc. 21

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

LOREN W. MAY, SR.,
REG. #17748-045 PLAINTIFF

v. 2:12-cv-00019-BSM-JTK

UNITED STATES OF AMERICA, et al. DEFENDANTS

ORDER

This matter is before the Court on the Defendants' Motion to Dismiss (Doc. No. 17), to which Plaintiff has filed a Response (Doc. No. 20).

In their Motion, Defendants submit for the Court's review several documents outside of the pleadings. In addition, they refer in their brief to an inspection by the Occupational Safety and Health Administration, to which they have provided no evidence in support. Finally, Defendants also make statements concerning actions they have taken to resolve certain problems, but the Court cannot accept such statements at face value. Therefore, pursuant to FED.R.CIV.P. 12(d), this Court will construe the pending motion as one for Summary Judgment, and will provide the parties the opportunity to supplement their filings with any additional relevant exhibits, briefs, and/or affidavits. Accordingly,

IT IS, THEREFORE, ORDERED that Defendants' Motion to Dismiss (Doc. No. 17) is hereby construed as a motion for Summary Judgment.

IT IS FURTHER ORDERED that any additional relevant exhibits, briefs, and/or affidavits in support of the parties' respective positions shall be filed within ten days of the date of this Order.

IT IS SO ORDERED this 24th day of May, 2012.

JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE

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