

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

JONATHAN A. WARE,
ADC #653450

PLAINTIFF

V.

3:12CV00084 JLH/JTR

MATTHEW HALL, Lieutenant,
Craighead County Detention Center, et al.

DEFENDANTS

ORDER

Plaintiff, Jonathan Ware, is a prisoner in East Arkansas Regional Unit of the Arkansas Department of Correction (“ADC”). He alleges that, on September 24, 2011, Defendants used excessive force against him while he was temporarily in the Craighead County Detention Center (“CCDC”).¹ See docket entry #2.

I. Plaintiff’s Filing of Discovery

Plaintiff has filed a Request for Production of Documents, Interrogatories, and his Answer to Defendants’ Interrogatories. See docket entries #8, #22, and #25. Plaintiff must *mail* his discovery requests directly to Defendants’ attorney, and *not* file them in the record. See Fed. R. Civ. P. 5(d). Thus, his discovery responses and requests will no longer be accepted for filing.

¹ It appears that, sometime in September of 2011, Plaintiff was transported from the ADC to the CCDC to attend a court appearance on outstanding criminal charges. *Id.*

II. Plaintiff's Motion for Discovery

Plaintiff has filed a Motion for Discovery, which is more properly characterized as a Motion for a Subpoena Duces Tecum. *See* docket entry #24. In that Motion, Plaintiff explains that when he returned the ADC, unspecified prison officials took pictures of the injuries he sustained during the September 24, 2011 altercation at the CCDC. *Id.* He also believes that his ADC prison file contains Incident Reports that were prepared by unspecified individuals about the September 24, 2011 incident. *Id.* Accordingly, he asks the Court to order the ADC to provide him with copies of those photographs and Incident Reports.² *Id.*

The Court finds Plaintiff's request to be reasonable and in compliance with Fed. R. Civ. P. 34(c) and 45(a). Accordingly, the Court will direct the Clerk to prepare a subpoena duces tecum to the Warden of the East Arkansas Regional Unit and instruct the U.S. Marshals to serve it. *See* 28 U.S.C. § 1915(d) (providing that the "officers of the courts shall issue and serve all process, and perform all duties" in cases, such as this one, where the plaintiff has been granted permission to proceed *in forma pauperis*).

III. Plaintiff's Motion for a Bench Trial

² There are no ADC Defendants in this lawsuit.

Plaintiff has filed a Motion asking the Court to immediately schedule a trial on the merits of his claims. *See* docket entry #23. As explained in the Initial Scheduling Order, the parties have until September 12, 2012, to complete discovery and October 12, 2012, to file dispositive motions. *See* docket entry #15. If the case survives the filing of any such dispositive motions, the Court will enter a Final Scheduling Order setting a trial date. Accordingly, the Motion is denied.

IV. Conclusion

IT IS THEREFORE ORDERED THAT:

1. The Clerk is directed to REFRAIN FROM DOCKETING any future written discovery from Plaintiff.
2. Plaintiff's Motion for Discovery (docket entry #24), which has been construed as a Motion for a Subpoena Duces Tecum, is GRANTED.
3. The Clerk is directed to prepare a subpoena duces tecum to the Warden of the East Arkansas Regional Unit for the production, to the Court, of: (a) any Incident Reports prepared about the September 24, 2011 use of force against Plaintiff at the Craighead County Detention Center; and (b) any photographs that were taken of the injuries Plaintiff allegedly sustained during the September 24, 2011 use of force. The Warden will be given 14 days to comply with the subpoena.
4. The U.S. Marshal is directed to serve the subpoena duces tecum on the

Warden of the East Arkansas Regional Unit without prepayment of fees and costs or security therefor.

5. Plaintiff's Motion for a Bench Trial (docket entry #23) is DENIED.

Dated this 26th day of June, 2012.


UNITED STATES MAGISTRATE JUDGE