

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

RONALD DEWAYNE SMULLIN

PLAINTIFF

V.

CASE NO. 3:15-CV-158-BD

BRETT DUNCAN, et al.

DEFENDANTS

ORDER

Mr. Smullin has moved to vacate his deposition taken on March 10, 2016.

(Docket entry #94) For cause, he explains that, while the Court granted counsel for the County Defendants leave to depose him as required by the Rules, counsel for Separate Defendants Bentley and Jackson participated in the deposition without leave of the Court.

Counsel for Defendants Bentley and Jackson has responded to the motion and concedes that he did not request or obtain leave of the Court to depose Mr. Smullin. He apparently believed that the court order allowing the County Defendants to depose Mr. Smullin also applied to his clients. (#96) Counsel argues that Mr. Smullin has not alleged that he suffered any prejudice by his participation in the deposition.

Mr. Smullin says that he felt oppressed by the presence of Bentley and Jackson's lawyer. Without any evidence of bad faith or unfair prejudice, however, counsel's participation in the deposition is not a sufficient reason for the Court to set aside the deposition.

Accordingly, Mr. Smullin's motion to vacate (#94) is DENIED. His motion to amend his motion to vacate (#95) is DENIED, as moot.

Mr. Smullin has again moved for leave to correspond with other ADC inmates to obtain affidavits regarding the events giving rise to this lawsuit. (#99) That motion is DENIED. If this case is set for a hearing or trial, Mr. Smullin will have an opportunity to call witnesses on his behalf.

IT IS SO ORDERED, this 29th day of March, 2016.



UNITED STATES MAGISTRATE JUDGE