

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

JACOB LYNN HARDIN

PLAINTIFF

V.

4:10CV01073 JTR

AARON DUVALL, Sheriff,
Pope County Jail, et al.

DEFENDANTS

ORDER

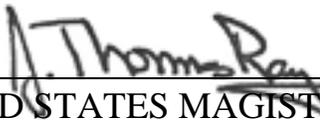
In this § 1983 action, Plaintiff alleges that, while he was a pretrial detainee at the Pope County Detention Center, Defendants used excessive force against him and failed to provide him with adequate medical care for the injuries he sustained in that altercation. *See* docket entries #2 and #4. The case is scheduled to proceed to a consent, non-jury trial on October 5, 2011, in Little Rock, Arkansas. *See* docket entry #45.

Plaintiff has timely filed his Witness List. *See* docket entry #49. Seven of the eight named witnesses are the Defendants. *Id.* The eighth witness is Mr. Adam Micheal Kutcher, who allegedly saw Defendants use force against Plaintiff and deny him medical care. *Id.* Plaintiff has provided a private address for Mr. Kutcher in Lyman, Maine.

The Court may subpoena a witness who resides within 100 miles of where the trial is to occur. *See* Fed. R. Civ. P. 45(b)(2). Lyman, Maine is approximately 1,500 miles from Little Rock, Arkansas. *See* www.maps.google.com. Thus, the Court cannot issue a subpoena compelling Mr. Kutcher to appear at the October 5, 2011 trial. Of course, Mr. Kutcher may voluntarily appear at the trial, and if he does so, Plaintiff will be allowed to call him as a witness.

Finally, Plaintiff's current address is at the Johnson County Detention Center. However, the Johnson County Detention Center has orally informed the Court that Plaintiff is only being housed there as a courtesy, and that he is actually in the legal custody of the Pope County Detention Center. Thus, Defendants shall transport Plaintiff and his institutional file to the October 5, 2011 trial.

IT IS SO ORDERED this 7th day of September, 2011.



UNITED STATES MAGISTRATE JUDGE