

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

PATRICK IGWE BROWN

PLAINTIFF

v.

4:10-cv-01102-JMM-JTK

JOSE POLLOCK, et al.

DEFENDANTS

**ORDER**

In anticipation of the Evidentiary Hearing scheduled on March 7, 2012, in Little Rock, Arkansas, Plaintiff has submitted a Witness List (Doc. No. 75) requesting six witnesses. Defendants filed a Response to the Witness List, stating that none of the requested witnesses are employed by Ashley County and that they will not be able to ensure the attendance of them. Having performed a careful review of Plaintiff's proposed witness list, the Court finds that three of his requested witnesses should be permitted.<sup>1</sup> However, Plaintiff does not provide a current address for requested witnesses William Robinson and Thompson. Therefore, the Court will deny his request for these two witnesses.

The Court will issue a subpoena for requested witness Torish Young. The Clerk of the Court is hereby directed to issue a subpoena directing the appearance of Torish Young, 403 W. Bowles, Dumas, AR 71639, at the March 7, 2012, hearing at 9:30 a.m., United States District Court, 600 W. Capitol Avenue, Courtroom 4B, Little Rock, Arkansas 72201. The United States Marshal is directed to serve this subpoena without payment of costs or fees therefore. Plaintiff is hereby notified that Rule 45(b) of the Federal Rules of Civil Procedure requires service to be accomplished by "tendering the fees for 1 day's attendance and the mileage allowed by law." Fed.R.Civ.P.

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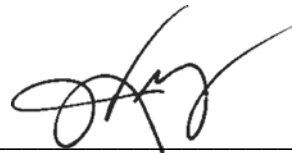
<sup>1</sup>Plaintiff has also been directed to supplement his witness request with respect to his request for Dr. Luwells. (Doc. No. 83).

45(b)(1). Witness fees are \$40 per day and \$.55 per mile, round trip from the witness' residence to where they must appear. 28 U.S.C. § 1821(b). While 28 U.S.C. § 1915(a) allows for the waiver of prepayment of "fees or costs," it does not authorize federal courts to waive or order payment of witness fees for a civil litigant proceeding in forma pauperis. United States Marshals Service v. Means, 741 F.2d 1053, 1056-57 (8th Cir. 1984). Accordingly, the Court will not provide the \$40 witness fee and, unless Plaintiff tenders the \$40 witness fee, there is no authority to compel his witness to testify.

The Arkansas Department of Correction is hereby directed to ensure the attendance of requested witnesses Glen Brown, ADC #116584 and Kenneth Osburn, ADC #079267, at the March 7, 2012 Hearing.

The Clerk of the Court is directed to forward a copy of this Order to the Arkansas Department of Correction Central Transportation/Medical Services, 7203 West 7th Street, Pine Bluff, AR 71603.

IT IS SO ORDERED this 22<sup>nd</sup> day of February, 2012.



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JEROME T. KEARNEY  
UNITED STATES MAGISTRATE JUDGE