

**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 April 24, 2012, in Little Rock, Arkansas,¹ 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 (Doc. No. 82). Having performed a careful review of Plaintiff's proposed witness list, the Court finds that three of his requested witnesses should be permitted.²

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 April 24, 2012 Hearing.

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 April 24, 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

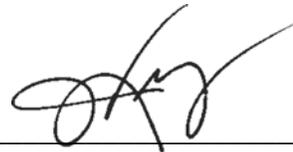
¹The previously-scheduled hearing on March 7, 2012 was continued at Plaintiff's request due to transportation problems.

²Plaintiff was directed to supplement his witness request with respect to his request for Dr. Luwellen, but did not respond. (Doc. No. 83). Plaintiff does not provide a current address for requested witnesses William Robinson and Thompson.

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. 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 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 5th day of April, 2012.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE