

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

**JON MILLS,
ADC #86911**

PLAINTIFF

v.

CASE NO. 5:05cv00304 BSM/JTK

DAVID WHITE, et al.

DEFENDANTS

ORDER

Defendant R. Bailey (“Bailey”) filed a second motion for summary judgment on April 13, 2010. [Doc. No. 182]. In his response [Doc. No. 204], plaintiff Jon Mills (“Mills”) asks for additional time to conduct discovery, depositions, and obtain affidavits, citing Fed. R. Civ. P. 56(f) (amended December 1, 2010), which provides as follows:

If a nonmovant shows by affidavit of declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

- (1) defer considering the motion or deny it;
- (2) allow time to obtain affidavits or declarations or to take discovery;
- (3) issue any other appropriate order.

Fed. R. Civ. P. 56(d) (amending Fed. R. Civ. P. 56(f), December 10, 2010).

Mills’s court-appointed attorney, Will Bond, submitted an affidavit in support of the response [Doc. No. 204-1], stating he was appointed on September 1, 2010, at which time no depositions or written discovery had been conducted on the remaining issue of prison strip searches. He states the United States Court of Appeals for the Eighth Circuit noted the need for further factual development of this issue in its February 5, 2010, order [Doc. No. 172], and asks for additional time in which to conduct discovery and depositions.

In light of Mills's request, and after consulting defense counsel, it is determined that the interests of justice would be furthered by providing the parties a short extension of time in which to complete discovery, prior to ruling on any dispositive motions. Therefore, Bailey's motion is denied, without prejudice, and the parties are directed to complete discovery within 60 days of the date of this order. Any additional dispositive motions may be re-filed within 30 days thereafter. Accordingly,

IT IS, THEREFORE, ORDERED that the second motion for summary judgment, filed by Bailey [Doc. No. 182], is DENIED without prejudice.

The parties are directed to complete discovery within 60 days of the date of this order. Dispositive motions must be filed within 30 days thereafter.

IT IS SO ORDERED this 9th day of March, 2011.


UNITED STATES DISTRICT JUDGE