

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

PHILLIP V. McDANIEL
ADC #84290

PLAINTIFF

V.

NO: 5:08CV00030 HDY

LARRY NORRIS *et al.*

DEFENDANTS

ORDER

This matter is scheduled for a bench trial on February 10, 2009. On October 31, 2008, Plaintiff submitted a proposed witness list (docket entry #45), requesting 16 witnesses to be called on his behalf other than himself.¹ Those individuals are: CO-II Riggs, Sgt. Harris, Sgt. Cloird, CO-II Hankins, Warden Marvin Evans, Maj. C Kelly, CO-II Brian L. Compton, Mrs. Jones, Lt. Riley, inmate Michael Davis, inmate Jeffrey B. Hearold, CO-II Grady, CO-II Louden, Larry May, Denise Krablin, and Lorie Taylor. Jones and Krablin are nurses who treated Plaintiff after the incident at issue in this complaint. Taylor conducted a disciplinary hearing following the incident, and May is a deputy assistant director for the Arkansas Department of Correction. Other than the two inmates Plaintiff has proposed as witnesses, the remainder of the proposed witnesses are officials at the Tucker Unit. Defendants filed a response to the list (docket entry #49).

On November 19, 2008, the Court entered an order allowing Plaintiff only Riggs, Hankins, Compton, Hearold, Grady, and Jones, as witnesses (docket entry #50). All other witnesses were deemed to have testimony that was irrelevant, or cumulative. The Court also noted its order directing the preservation of any existing security tape relevant to the claims at issue in this matter

¹The trial, originally scheduled for December 3, 2008, was continued on December 2, 2008 (docket entry #55).

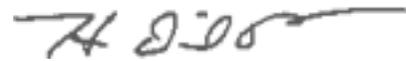
(docket entry #37).

On January 6, 2009, Plaintiff filed a motion for reconsideration, seeking that two more witnesses, Sgt. Cloird, and nurse Krablin, be allowed (docket entry #61). Plaintiff has not cited any facts to cause the Court to believe Cloird and Krablin can offer information that cannot be obtained from other witnesses or medical records. Accordingly, Plaintiff's motion for reconsideration will be denied.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff is allowed as witnesses Riggs, Hankins, Compton, Hearold, Grady, and Jones. Plaintiff's other proposed witnesses are denied.
2. The ADC is directed to ensure Plaintiff's attendance at the trial, to bring Plaintiff's institutional and medical jackets to the trial, and to bring to the trial any existing security tape relevant to the claims at issue in this case.
3. The ADC is further directed to ensure the attendance of inmate Jeffrey B. Hearold, ADC #104862, and Riggs, Hankins, Compton, Grady, and Jones.
4. Plaintiff's motion for reconsideration (docket entry #61) is DENIED.

DATED this 13 day of January, 2009.



UNITED STATES MAGISTRATE JUDGE