

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

MARVIN LIVINGSTON,  
ADC #127661

PLAINTIFF

v.

5:09CV00227JMM/JTK

ED ADAMS, et al.

DEFENDANTS

ORDER

This matter is before the Court on Plaintiff's Motion to Compel (Doc. No. 46), and on Defendants' Motion to Withdraw as Attorney (Doc. No. 48). Defendants have filed a response to the Plaintiff's Motion to Compel (Doc. No. 47).

In the Motion to Compel, Plaintiff refers to a video of the incident at issue in the case, and asks the Court to compel Defendants to produce another video which more completely captures the entire incident. Plaintiff notes that in the Court's June 10, 2010 Findings and Recommendation, the Court referred to the video and the fact that it did not cover the beginning of the incident in question. In their response, Defendants state that the video which has been produced is the only video of the incident, and that another more complete video does not exist. In light of Defendants' response, the Court finds Plaintiff's motion should be denied.

In the Motion to Withdraw as counsel, the attorneys for the Defendants ask to withdraw as counsel for Defendant Johnson. According to the motion, an answer was filed on Defendant's behalf on September 10, 2009, and in March, 2010, Defendant left the employ of the W.C. "Dub" Brassell Detention Center. Further, counsel states that letters mailed to Defendant Johnson at his last-known address on July 26, 2010, and August 16, 2010, were returned to sender. In addition, Defendant's telephone has been disconnected. Defendants state Defendant Johnson has not contacted counsel concerning his new mailing address and/or telephone number, and this has caused a breakdown in communication between Defendant and

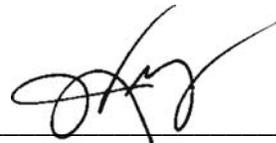
his counsel.

Currently, this case is set for an Evidentiary Hearing on April 11, 2010. This Court is reluctant to grant Defendants' motion without any proper prior notice to Defendant Johnson concerning his need to find other representation for the April Hearing. Therefore, until Defendants can show the Court that Defendant Johnson has been contacted and is aware of their intent to withdraw on his behalf, the Court finds the motion should be denied. Accordingly,

IT IS, THEREFORE, ORDERED that Plaintiff's Motion to Compel (Doc. No. 46) is hereby DENIED.

IT IS FURTHER ORDERED that Defendants' Motion to Withdraw as attorney for Defendant Johnson (Doc. No. 48) is hereby DENIED without prejudice.

IT IS SO ORDERED this 31<sup>st</sup> day of August, 2010.



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UNITED STATES MAGISTRATE JUDGE