

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

MARVIN LIVINGSTON,
ADC #127661

PLAINTIFF

v.

5:09-cv-00227-JMM-JTK

ED ADAMS, et al.

DEFENDANTS

ORDER

In anticipation of the Evidentiary Hearing scheduled in this case for April 7, 2011, Little Rock, Arkansas, Plaintiff has submitted witness lists requesting ten witnesses (Doc. Nos. 41, 51).

Plaintiff asks for several current and former inmates to testify concerning the incident which occurred or concerning the injuries which Plaintiff suffered: Charles Winston, “Steven Haltiwagner,” Timothy Johnson, “Brain Guyton,” Moses Goins, and Moses Watts (Doc. No. 41). Based on his description of their anticipated testimony, the Court finds that inmate Steven Haltiwanger, ADC #113274 should be allowed. Inmate Charles Winston will not be allowed because he did not witness the incident. In addition, the Court is unable to locate requested inmates Timothy Johnson or Brain (Brian) Guyton within the Arkansas Department of Correction. Former inmate Moses Goins will be allowed, and the Court will issue a subpoena for his presence. However, former inmate Moses Watts will not be allowed, because Plaintiff does not provide a complete address for him.

Plaintiff also asks that Angela Randle be allowed as a witness (Doc. No. 51). Defendants have included Ms. Randall on their Witness List (Doc. No. 53), and therefore, the Court finds she will be allowed and that a subpoena will not be necessary for her presence. Plaintiff asks that Deputy Pratt and Deputy E. Murry of the Dub Brassell Detention Center be permitted, as having

witnessed the incident. Finally, Plaintiff asks for Robert Morehead, who witnessed scratches on Plaintiff's body.

Based on Plaintiff's requests, the Court will direct Defendants to ensure the attendance of Angela Randall and Deputies Pratt and Murry. However, since requested witness Morehead did not witness the incident, the Court will not issue a subpoena for him. Accordingly,

IT IS, THEREFORE, ORDERED that Defendants are directed to ensure the attendance of Nurse Randall, Deputy Pratt, and Deputy E. Murry, at the April 7, 2011 Evidentiary Hearing.

IT IS FURTHER ORDERED that the Arkansas Department of Correction (ADC) transport inmate Steven Haltiwanger, ADC # 113274, and Plaintiff Marvin Livingston, ADC #127661, together with his institutional and medical files, to the April 7, 2011 hearing.

The Clerk of the Court is hereby directed to issue a subpoena directing the appearance of the following witness at the April 7, 2011 hearing, at 9:30 a.m., Richard Sheppard Arnold United States District Court, 600 W. Capitol, Court Room 4B, Little Rock, Arkansas 72201:

Moses Goins, 4309 West 16th Street, Pine Bluff, Arkansas, 71603.

The United States Marshal is hereby directed to serve the subpoena without pre-payment of fees and costs or security therefore.

IT IS SO ORDERED this 24th day of March, 2011.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE