

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

JESSIE HILL,
ADC #104136

PLAINTIFF

v.

5:10-cv-00030-JMM-JTK

ROBERT RECTENWALD, et al.

DEFENDANTS

ORDER

This matter is before the Court on Plaintiff's Motions to Compel and for a Jury Trial Date (Doc. No. 112). Defendants filed Responses in opposition to the Motion (Doc. Nos. 117, 118), and Plaintiff filed Replies (Doc. Nos. 119, 120).

In his Motion to Compel, Plaintiff asks the Court to order Defendants to produce copies of the Arkansas Department of Correction (ADC) Handbook, Administrative Regulation 225, and Security Post Orders. Plaintiff also asks that Defendants be required to answer each interrogatory to which their attorney objected.

Defendants respond that the Handbook, Administrative Regulation and Security Post Orders are not available to Plaintiff due to security reasons, and production of such could result in danger and injury to staff members and could potentially reduce morale among staff and employees. Defendants state Plaintiff requested these copies in order to support his argument that Defendants violated ADC policies. Defendants note, however, that violation of an ADC policy is not a constitutional violation, citing Gardner v. Howard, 109 F.3d 427, 430 (8th Cir. 1997).

In his Replies, Plaintiff states his Motion deals with the Defendants' knowledge of department policies and procedures and whether their actions fell within the requirements set forth in the Post Orders.

As noted by the Defendants, failure to abide by policies and procedures does not state a constitutional claim. See Gardner v. Howard, 109 F.3d 427, 430 (8th Cir. 1997). In addition, Plaintiff will be able to testify at the forthcoming PreJury Hearing his belief that Defendants' actions were not in conformity with certain procedural rules. In light of Defendants' objection, the Court finds Plaintiff's request for the Handbook, Administrative Regulation, or Security Post Orders should be denied at this time.

The Court also reviewed Plaintiff's Interrogatories to Defendants and their Responses, and finds that the Responses were appropriate and that the objections are supported by relevancy and security reasons. Therefore, the Court finds Plaintiff's Motion to Compel should be denied.

This matter is currently set for a PreJury Evidentiary Hearing on March 8, 2011 (Doc. No. 115). Therefore, Plaintiff's Motion for a Jury Trial Date is premature. Accordingly,

IT IS, THEREFORE, ORDERED that Plaintiff's Motions to Compel and for a Jury Trial date (Doc. No. 112) are DENIED without prejudice.

IT IS SO ORDERED this 1st day of November, 2010.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE