

**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 Motion to Compel and for Sanctions (Doc. No. 132). Defendants filed a Response in opposition to the Motion (Doc. No. 133).

In support of his Motion, Plaintiff states he requested a non-party employee of the Arkansas Department of Correction, CO Iris McBride, to provide a witness statement to him. Plaintiff asks the Court to order Defendants to provide him with that statement, together with photographs of Prison Rape Elimination Act (PREA) posters which are displayed at his Unit. Plaintiff also asks the Court to order Defendants to take polygraph examinations. Finally, Plaintiff asks for sanctions against Defendants' counsel, stating she attempted to deceive Ms. McBride by telling her the March 8, 2011 Pre Jury Hearing in this case was postponed until July.

In their Response, Defendants state the Court should deny Plaintiff's Motion, because he did not submit discovery requests to them for the statement or the photographs. Defendants also state Plaintiff's request for polygraph tests was made previously, and denied by this Court. Finally, Defendants' counsel denies attempting to deceive Plaintiff's witnesses, and notes that Plaintiff is not automatically entitled to present witnesses at a Pre Jury Hearing.

The Court agrees with Defendants, and finds Plaintiff's Motion should be denied. Plaintiff must submit a request for production of documents to the Defendants, pursuant to FED.R.CIV.P. 34,

and Defendants will be permitted 30 days in which to respond to his requests. A Motion to Compel is not appropriate until a party's request for documents or other discovery is denied or rejected by the opposing party. In addition, the Court denied Plaintiff's prior requests to order Defendants to submit to polygraph tests, by Orders dated June 28, 2010 (Doc. No. 65) and August 30, 2010 (Doc. No. 97). Finally, the Court finds Plaintiff's Motion for Sanctions is not supported by any evidence and should be denied. Accordingly,

IT IS, THEREFORE, ORDERED that Plaintiff's Motion to Compel and for Sanctions (Doc. No. 132) is hereby DENIED.

IT IS SO ORDERED this 7th day of December, 2010.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE