

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

RAMON HOSEA MCGRAW,
ADC #14102

Plaintiff,

v.

EDWARD ADAMS, Captain,
W.C. Brassell Detention Facility; *et al.*

Defendants.

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No. 5:12CV00260-JJV

ORDER

Plaintiff’s attorney submitted a Pretrial Disclosure Sheet (Doc. No. 157) that included a list of expected witnesses. The Court asked Defendants to ensure the appearance of the witnesses in Arkansas Department of Correction (ADC) employment. Three witnesses are no longer employed by the ADC so Defendants have produced last known addresses for these witnesses. The Court will attempt to subpoena these witnesses at the addresses provided.

Although the Court will issue a subpoena for these witnesses, the Court cannot compel their appearance. Rule 45(b) of the Federal Rules of Civil Procedure requires service to be accomplished by “tendering the fees for 1 day’s attendance and the mileage allowed by law.” Fed. R. Civ. P. 45(b)(1). In addition, 28 U.S.C. § 1915(a) allows for the waiver of prepayment of “fees or costs,” but it does not authorize federal courts to waive or order payment of witness fees for a civil litigant proceeding *in forma pauperis*. *United States Marshals Service v. Means*, 741 F.2d 1053, 1056-57 (8th Cir. 1984). Accordingly, the Court does not provide any payment of witness fees, and Plaintiff is forewarned that, unless he tenders the \$40 witness fee and payment for mileage to the witness, the law does not permit the Court to compel a witness to testify.

The Clerk of the Court shall issue subpoenas directing the appearance of the following

witnesses at the September 22, 2015, Jury Trial at 9:00 a.m., United States District Court, 500 W. Capitol Avenue, Courtroom 2C, Little Rock, Arkansas 72201: Randy Jackson, Larry Gragg, and Jessie Nelson. The United States Marshal shall serve these subpoenas without payment of costs or fees therefore.

IT IS SO ORDERED this 16th day of September, 2015.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE