

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

DERROL DEE KIRBY, III

PLAINTIFF

v.

Civil No. 06-2168

JOHN ROTH, Ex-Chief of Police, Barling, Arkansas
Police Department; LARRY MERCHANT, next in charge
under Police Chief, Barling Police Department;
CITY OF BARLING; KEVIN DOUGAN,
Barling Police Department Patrolman; JOHN
BARBOR, Barling Police Department Patrolman

DEFENDANTS

ORDER

This civil rights action was filed *in forma pauperis* (IFP). Pending before the undersigned are Motions by Plaintiff for Issuance of a Rule 45 Subpoena. (Doc. 53 and 55). Plaintiff has requested the medical records of the Fort Smith EMS-702 related to the response of the EMS to Mr. Kirby on November 8, 2005 (Doc. 53) and the medical records from Dr. Smith of the River Valley Muscular and Skeletal Clinic (Doc. 55).

Upon due consideration, and for good cause shown, the Motions for Issuance of Rule 45 subpoena (Docs. 53 and 55) are hereby **GRANTED**.

Accordingly, the clerk of court is directed to issue a subpoena duces tecum to the following:

1) Fort Smith EMS, 1701 South Greenwood, Fort Smith, Arkansas. The subpoena should require the production of the following: a complete copy of any and all records related to the response of Fort Smith EMS - 702 on or around November 8, 2005 regarding Derroll Dee Kirby. **A copy of these records should be delivered to the court, through the Pro Se Office, P.O. Box 1525, Fort Smith Arkansas, by January 21, 2010.**

The clerk of court is directed to serve the subpoena and a copy of this order on the Fort Smith EMS, via certified mail.

To the extent Plaintiff is requesting to subpoena Kevin Hixon and Christie Johnson to the hearing, that Motion is Denied at this time. Plaintiff may resubmit this request in response to the Court's Scheduling Order.

2) Dr. Smith -River Valley Muscular and Skeletal, 3500 West-East Knight Drive, Fort Smith, Arkansas 72917. The subpoena should require the production of the following: a complete copy of any and all records of Derroll Dee Kirby. **A copy of these records should be delivered to the court, through the Pro Se Office, P.O. Box 1525, Fort Smith Arkansas, by January 21, 2010.**

The clerk of court is directed to serve the subpoena and a copy of this order on Dr. Smith, via certified mail.

IT IS SO ORDERED this 21st day of December 2009.

/s/ J. Marschewski
HON. JAMES MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE