

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

CLIFTON O. SOLOMON

PLAINTIFF

v.

Civil No. 4:13-cv-04126

CORPORAL ALLEN SANDERS;
and DEWAYNE FLOYD

DEFENDANTS

ORDER

Plaintiff filed this section 1983 action on December 30, 2013. Plaintiff proceeds *pro se* and *in forma pauperis*. Currently before the Court is Plaintiff's Motion to Sever Trial. ECF No. 29.¹

In his Motion, Plaintiff request a separate jury trial for his claim of retaliation against Defendant Sanders because there is "no relation" of his claims against Defendant Sanders and his claims against Defendant Floyd. ECF No. 29.

Federal Rule of Civil Procedure 42(b) reads:

For convenience, to avoid prejudice, or to expedite and economize, the court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims. When ordering a separate trial, the court must preserve any federal right to a jury trial.

Fed. R. Civ. P. 42(b). Whether to sever claims or defendants falls within the discretion of the Court. *Id.*; see also *Tempur-Pedic Intern., Inc. v. Waste to Charity, Inc.*, Civil No. 01-2015, 2008 WL 5068913 (W.D. Ark. Nov. 25, 2008).

I find severing Defendant Floyd's trial from Defendant Sander's trial would not promote

¹While this document was filed by the Clerk of the Court as a Motion to Dismiss, the Court construes it as a Motion to Sever.

judicial economy or expedite this matter. While the Court recognizes the claims against Defendant Floyd and Defendant Sanders are distinct, the claims are closely related in time, the claims both occurred while Plaintiff was incarcerated at the Miller County Detention Center (“MCDC”), and the claims both relate to Plaintiff’s constitutional rights as an inmate at the MCDC.

For these reasons, Plaintiff’s Motion to Sever (ECF No. 29) is **DENIED** as moot.

IT IS SO ORDERED this 5th day of February 2015.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE