

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

**CLIFTON O. SOLOMON**

**PLAINTIFF**

v.

**Civil No. 4:13-cv-04126-SOH-BAB**

**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 are the following Motions of Plaintiff: Motion for issuance of Subpoena (ECF No. 36); Motion to Compel (ECF No. 39); Motion to Appoint Counsel (ECF No. 46); Motion for Issuance of Subpoena (ECF No. 47); Motion for Issuance of Subpoena (ECF No. 48); Motion(s) to Supplement Motion to Dismiss Motion (ECF No. 49, 50, 54); Motion to Amend Complaint (ECF No. 51); and Motion to Compel (ECF No. 57).

**1. BACKGROUND**

In Plaintiff's original Complaint, he names Dewayne Floyd and Allen Sanders as Defendants and states he is suing Defendants in both their individual and official capacities. Specifically, Plaintiff claims: (1) Defendant Sanders's actions related to Plaintiff's disciplinary proceedings in November 2013 were retaliation; (2) he was the victim of a health hazard on November 21, 2013 when Defendant Floyd used sulfuric acid in West A Pod; (3) the panic button does not work in his pod; (4) his pod has only one working shower for thirty inmates; (5) there is no hot water; (6) there are no cleaning supplies; and (7) the food is cold. ECF No. 1.

Plaintiff is a prolific filer, having filed to date at least twenty-nine (29) motions in this

matter. The Court has previously ordered the Clerk to accept no further motions to amend or supplement complaint from Plaintiff. He now seeks various other forms of relief. I will address each separately.

## 2. ANALYSIS

a. Motion for issuance of Subpoena (ECF No. 36): In this Motion, Plaintiff seeks to obtain video and audio recordings from the time of his incarceration. While he is proceeding *pro se*, Plaintiff must comply with the rules of procedure and this Court. He should seek production of these materials through the written discovery process provided for in the FED. R. CIV. PROC. The Motion for issuance of Subpoena (ECF No. 36) is **DENIED**.

b. Motion to Compel (ECF No. 39): With this Motion, Plaintiff seeks an order compelling the Defendants to have the Miller County Jail allow him to conduct a walk through examination of that facility. He moves for an order directing the United States Marshal to accompany him on this inspection. The Motion to Compel (ECF No. 39) is **DENIED**. Plaintiff may, by way of written discovery, seek production of any pictures or videos of the jail which depict the condition of the facility.

c. Motion to Appoint Counsel (ECF No. 46): Plaintiff seeks court appointed counsel in this civil matter. A civil litigant does not have a constitutional or statutory right to appointed counsel in a civil action, but the Court may appoint counsel at its discretion. 28 U.S.C. § 1915(e)(1). The Court has considered Plaintiff's need for an attorney, the likelihood that Plaintiff will benefit from assistance of counsel, the factual complexity of the case, Plaintiff's ability to investigate and present his case, and the complexity of the legal issues. In considering these factors, the Court finds that Plaintiff's claims do not appear legally or factually complex, and it appears he is capable

of prosecuting his claims without appointed counsel. The Motion to Appoint Counsel (ECF No. 46) is **DENIED**.

d. Motion for Issuance of Subpoena (ECF No. 47): In this Motion, Plaintiff seeks issuance of a subpoena to compel a Lt. Adams to return a written grievance to Plaintiff. This Motion for Issuance of Subpoena (ECF No. 47) is **DENIED**. Plaintiff may seek production of documents in this matter through the written discovery process.

e. Motion for Issuance of Subpoena (ECF No. 48): In this Motion, Plaintiff seeks issuance of a subpoena to compel Kim Watson to return a written grievance to Plaintiff. This Motion for Issuance of Subpoena (ECF No. 48) is **DENIED**. Plaintiff may seek production of documents in this matter through the written discovery process.

f. Motion(s) to Supplement Motion to Dismiss Motion (ECF No. 49, 50, and 54): In these three Motions, Plaintiff seeks to supplement a previously filed Motion to Dismiss/Sever (ECF No. 29). The Court has denied this Motion to Dismiss/Sever. ECF No. 53. Accordingly, Plaintiff's Motion(s) to Supplement Motion to Dismiss Motion (ECF No. 49, 50, and 54) are **DENIED** as moot.

g. Motion to Amend Complaint (ECF No. 51): The Court has previously directed Plaintiff to not file further Motions to Amend Complaint. ECF No. 30. Plaintiff's Motion to Amend Complaint (ECF No. 51) is **DENIED**.

h. Motion to Compel (ECF No. 57): In this Motion, Plaintiff seeks to compel Defendants to produce a video and audio recording of the incident or incidents which form the basis of his complaint. He claims the Defendants have responded to his request and stated that such recordings do not exist. The Court can not order the production of materials that no longer exist. If this

matter proceeds to trial, Defendants will be required to produce a witness to explain why and how such recordings were destroyed, if they in fact existed. Plaintiff's Motion to Compel (ECF No. 57) is **DENIED**.

The Clerk of the Court is **DIRECTED** to accept no further pleading from Plaintiff without prior approval from the undersigned.

**IT IS SO ORDERED this 14th day of April 2015.**

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