

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 09-cv-01722-PAB-BNB

JAMES SCOTT DALY,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

ORDER

This matter arises on the plaintiff's **Request That Court, on its Own Motion, Call Witnesses to Attend Evidentiary Hearing** [Doc. # 81, filed 08/26/2010]. The Motion is GRANTED IN PART and DENIED IN PART.

On August 5, 2010, I set an evidentiary hearing on the plaintiff's Motion to Seal All Papers and Documents [Doc. #62]. I ordered that the plaintiff "be prepared at the hearing to present evidence concerning the threats and actions against him which endanger his health and safety and which he attributes to his participation in this case." I further ordered that the defendant "be prepared at the hearing to present evidence concerning actions taken to assure the plaintiff's health and safety."

The plaintiff is an incarcerated person and is proceeding *pro se*. He seeks leave to call three witnesses to testify at the hearing. First, he seeks leave to call Warden Blake R. Davis. The plaintiff does not make any showing of the necessity for Mr. Davis's testimony. The expected testimony concerns only matters about which Mr. Davis is a supervisor, not matters

about which Mr. Davis has unique knowledge; and much of the information sought from Mr. Davis can be provided by the plaintiff.

The plaintiff also seeks leave to call Ms. K. Dell, Special Investigative Service Technician, and Ms. Dianna Krist, Special Investigation Agent. The expected testimony of these witnesses appears to be relevant and necessary to support the plaintiff's request to seal all documents in this case.

IT IS ORDERED that:

- (1) The plaintiff's request to call Warden Davis as a witness is DENIED; and
- (2) The plaintiff's request to call Ms. Dell and Ms. Krist as witnesses is GRANTED.

The defendant and its counsel shall make all arrangements necessary to assure that Ms. Dell and Ms. Krist appear at the hearing either in person or by video-conference at the facility.

Dated September 2, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge