

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

FRED T. CALDWELL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 16-674-SLR
	)	
ROBERT D. WALLIS,	)	
	)	
Defendant.	)	

**MEMORANDUM**

1. **Introduction.** Plaintiff Fred T. Caldwell (“plaintiff), an inmate at the James T. Vaughn Correctional Center, Smyrna, Delaware, filed this lawsuit on August 5, 2016, pursuant to 42 U.S.C. § 1983. He proceeds pro se and has been granted leave to proceed in forma pauperis. Pending are several motions filed by plaintiff. (D.I. 11, 18, 23)

2. **Motion/Request for Permission to File Initial Discovery.** Plaintiff moves to obtain initial discovery from defendant pursuant to Fed. R. Civ. P. 26(a)(1). (D.I. 11) The court will deny the motion. Because plaintiff is an incarcerated individual, this proceeding is exempt from the initial discovery requirement. See Fed. R. Civ. P. 26(a)(1)(B)(iv).

3. The docket reflects that, prior to service, plaintiff filed a request for production of documents and interrogatories directed to defendant Robert T. Wallis (“defendant”). (D.I. 13) Defendant executed a waiver of service on February 6, 2017. (D.I. 17)

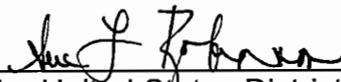
Defendant will be ordered to respond to the discovery requests, if he has not already done so.

4. **Motion to Amend.** Plaintiff moves to amend the complaint to proceed as a bench trial instead of a jury trial and to clarify that he sued defendant in his individual capacity. (D.I. 18) The motion will be granted.

5. **Motion for an Order Directing Defendant to Answer Request for Admissions and Amended Request for Admissions.** Plaintiff moves for an order directing defendant to respond to request for admissions and amended request for admissions. (D.I. 23) The motion will be granted. Plaintiff prematurely filed the request for admissions (D.I. 15) prior to defendant's waiver of service (D.I. 17). Plaintiff filed an amended request for admissions on April 27, 2017. (D.I. 22) Defendant will be ordered to respond to the requests, if he has not already done so.

6. **Conclusion.** For the above reasons, the court will: (1) deny the motion/request for permission to file initial discovery (D.I. 11); and (2) grant the motion to amend (D.I. 18) and the motion for defendant to file responses to request for admissions (D.I. 15) and amended request for admissions (D.I. 22) (D.I. 23). A separate order shall issue.

Dated: May 5, 2017

  
\_\_\_\_\_  
Senior United States District Judge