

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARKUS HUNTER,

Plaintiffs,

v.

**C.O. DUTTON,
et al.,**

Defendants.

No. 06-0444-DRH

ORDER

HERNDON, Chief Judge:

Pending before the Court is Plaintiff's motion to compel Plaintiff's attendance at depositions (Doc. 70). Specifically, Plaintiff contends that he should be permitted to attend the depositions at Tamms on July 13, 2009 and July 14, 2009 because if he is not permitted to attend, he will not be able to communicate effectively with his counsel in preparation for the trial. Based on the following, the Court **DENIES** the motion.

Here, the motion does not indicate why Plaintiff needs to be present at the depositions when he is represented by counsel beyond his general assertion of communication and preparation for trial. Further, the motion does not indicate the prejudice that will result if Plaintiff does not attend the depositions. Thus, the Court must assume that no prejudice will result. In addition, the Court must presume that if counsel has the knowledge of which witnesses to depose, Plaintiff has conveyed to him the reasons for deposing those persons and so he has discussed with Plaintiff

the nature of the inquiry necessary with each witness. In litigation, it is typical for occurrence witnesses to be deposed without the party litigant present. Tamms is a super-maximum prison with extraordinary security measures for every prisoner. The logistical issues with having the deponent and the Plaintiff in the same place at one time could result in security risks to the deponent, the Plaintiff's attorney, and prison staff, all of which the prison intelligence unit must assess, if they have the correct information to do so. The Court will not presume to override those matters in the face of inadequate information from Plaintiff explaining the need to be present when he has counsel.

Accordingly, the Court **DENIES** the motion to compel Plaintiff's attendance at depositions (Doc. 70).

IT IS SO ORDERED.

Signed this 9th day of July, 2009.

/s/ David R. Herndon

**Chief Judge
United States District Court**