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

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| TIMMIE MARTIN, #N-51443, |
|---------------------------|
| Plaintiff, |
| vs. |
| DAVID A. REDNOUR, et al., |
| Defendants. |

CASE NO. 10-cv-1035-JPG

MEMORANDUM AND ORDER

GILBERT, **District Judge**:

This matter is before the Court for case management. Plaintiff was notified on August 30, 2011, in Doc. 8 that if he failed to move to voluntarily dismiss his claims in Count 1 B. against Defendants Flatt, McDaniel, and Hoffman, and/or his claims in Count 1 C. and Count 2 against Defendants Chatman and Best, those claims would be severed into two new actions and another filing fee would be assessed for each new case. Plaintiff was given 45 days, until October 14, 2011, to file a motion for voluntary dismissal, so as to avoid the imposition of additional filing fees. To date, the Court has received no communication from Plaintiff attempting to voluntarily dismiss those claims, and that 45-day period has since elapsed.

IT IS HEREBY ORDERED that Plaintiff's claims against Defendants Flatt, McDaniel,

Hoffman, Chatman, and Best are SEVERED into two new cases as follows:

- (Case 1) Count 1 B. against Defendants Flatt, McDaniel and Hoffman, for excessive force on November 3, 2010;
- (Case 2) Count 1 C. and Count 2 against Defendants Chatman and Best, for excessive force and deliberate indifference to medical needs arising from an incident on December 14, 2010.

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IT IS FURTHER ORDERED that both new cases SHALL BE ASSIGNED to the

undersigned District Judge for further proceedings. In each of the new cases, the Clerk is

DIRECTED to file the following documents:

- (1) This Memorandum and Order;
- (2) The Original Complaint (Doc. 1) and accompanying Exhibits;
- (3) The Memorandum and Order regarding severance (Doc. 8).

IT IS FURTHER ORDERED that the <u>only claims remaining in this original action</u> (No. 10-cv-1035) are the claims in Count 1 A. against Defendants Bedinger and Morris for <u>excessive force on July 7, 2010</u>. This case shall now be captioned as: TIMMIE MARTIN, Plaintiff, vs. LT. BEDINGER and T. MORRIS, Defendants.

IT IS FURTHER ORDERED that DEFENDANTS FLATT, McDANIEL,

HOFFMAN, CHATMAN, and BEST shall be TERMINATED from this case.

If Plaintiff is unable to pay the filing fee in full for the new cases, he shall file a Motion for Leave to Proceed *In Forma Pauperis* (IFP) in each case within 21 days of this order (on or before **November 10, 2011**). The Clerk is **DIRECTED** to mail Plaintiff two forms for a Motion for Leave to Proceed *In Forma Pauperis*. Failure to either pay the filing fee for each new action or file a Motion for Leave to Proceed *In Forma Pauperis* may result in dismissal of that new action pursuant to Federal Rule of Civil Procedure 41(b).

Service on the Defendants in the two new cases shall not be ordered until after Plaintiff

either pays the filing fee or files his Motion for Leave to Proceed In Forma Pauperis.

IT IS SO ORDERED.

DATED: October 19, 2011

s/J. Phil Gilbert United States District Judge