

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

HAROLD J. JOHNSON,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 15-cv-00641-JPG-DGW
	)	
CASEYVILLE POLICE DEPARTMENT,	)	
<i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter comes before the court on Defendant Kale Pirtle’s Motion (Doc. 28) for Leave to Amend Answer and Motion (Doc. 25) to Compel and for Sanctions and for Plaintiff’s failure to comply with a court order. The plaintiff has filed a response to the show cause order [Doc. 27].

The Plaintiff filed his amended complaint on July 30, 2015, alleging various violations of his constitutional rights in connection with his arrest and prosecution for impersonating a police officer. (Doc. 6). Upon threshold review, plaintiff was permitted to proceed on a single Fourth Amendment stop and arrest claim against defendant Pirtle.

This matter then proceeded to the discovery phase of litigation. On December 19, 2016, Plaintiff was served with a notice for deposition and failed to appear. Defendant’s motion states that he has not received any communications from the plaintiff since September 2016.

The Court issued an Order to Show Cause (Doc. 26) directing the plaintiff to show cause why this case should not be dismissed with prejudice as a sanction for plaintiff’s failure to attend his deposition. According to the plaintiff’s response, his “oral deposition was taken on 03-30-2017.” He further states that, “oral depositions were done outside of the court but by Court

instructions” and that plaintiff “was waiting to receive instructions from the Court.” Defendant now moves to amend his answer to add the affirmative defense of collateral estoppel and states that, “[o]n March 30, 2017, Defendant took Plaintiff’s deposition.”

Therefore, Defendant’s Motion (Doc. 25) to Compel and for Sanction is moot. Defendant’s Motion (Doc. 28) for Leave to Amend Answer is **GRANTED**. The amended answer shall be filed on or before **April 24, 2017**.

**IT IS SO ORDERED.**

**DATED:** 4/7/2017

*s/J. Phil Gilbert*  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**