IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

MICHAEL W. SMITH PLAINTIFF

v. CIVIL ACTION NO. 2:12-cv-00075-GHD

GAIL JACO and KIMBERLY D. CHRESTMAN DEFENDANTS

MEMORANDUM OPINION DENYING PLAINTIFF MICHAEL W. SMITH'S MOTION FOR PRETRIAL SUBPOENA *DUCES TECUM*

In the case *sub judice*, which is a property dispute case between *pro se* Plaintiff Michael W. Smith ("Plaintiff") and *pro se* Defendants Gail Jaco and Kimberly D. Chrestman ("Defendants"), Plaintiff has filed a motion for the issuance of a pretrial subpoena *duces tecum* [102] for the purpose of directing the Tennessee Department of Corrections to provide to Plaintiff a certified copy of recordings of phone calls made by Plaintiff to Defendants and copies of all phone lists submitted to Tennessee Department of Corrections officials by Plaintiff. Plaintiff maintains that "[t]he recordings are essential" to the resolution of this matter. Defendants have not filed a response to the motion. Upon due consideration, the Court finds that the motion must be denied for the reasons stated below.

Plaintiff has failed to demonstrate that these phone calls and phone list are relevant to the resolution of this property dispute. Further, Plaintiff's request to obtain this discovery is woefully outside the discovery period. The discovery deadline was March 28, 2013, and Plaintiff did not request an extension of the discovery deadline until September 29, 2014—on the eve of the trial in this matter which is presently set for December 1, 2014. In the opinion of this Court, permitting additional discovery at this late juncture likely would result in a delay of the

trial date, and Plaintiff has not demonstrated good cause for his untimely request to be granted. For all of the foregoing reasons, the Court finds that Plaintiff's motion is not well taken.

In sum, Plaintiff's motion for pretrial subpoena *duces tecum* [102] is DENIED.

An order in accordance with this opinion shall issue this day.

THIS, the 20th day of October, 2014.

SENIOR UNITED STATES DISTRICT JUDGE