

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

EARL BATES, #43349

PLAINTIFF

VS.

CIVIL ACTION NO. 3:08cv203-LRA

CHRISTOPHER EPPS AND  
GT ENTERPRISES OF MS, INC.

DEFENDANTS

**ORDER**

The parties appeared and participated in an omnibus hearing before the undersigned United States Magistrate Judge on the 17th day of December, 2008, at the James O. Eastland Federal Courthouse in Jackson, Mississippi. Earl Bates [hereinafter "Plaintiff"] appeared *pro se*; Defendant Christopher Epps was represented by attorney Pelecia E. Hall, Office of the Attorney General of Mississippi; Defendant American Correctional Association was represented by attorney George D. Hembree III, Jackson, Mississippi; and, Defendant GT Enterprises of MS, Inc. was represented by attorney Joshua C. McCrory, Brandon, Mississippi. Pursuant to the consent of the parties, this cause was assigned by District Judge Henry T. Wingate for all purposes to the undersigned by Order filed March 4, 2009. By Order filed March 13, 2009, Defendant American Correctional Association's Motion to Dismiss was granted, and it was dismissed from this lawsuit with prejudice.

Subsequent to the omnibus hearing, the parties have filed numerous motions, and the Court makes the following rulings in respect to same.

Plaintiff filed a "Request for Additional Information and Material Fact of Expert Witness" [#34 & 37], requesting that the conditions at SMCI be inspected and further

documentation provided. The Court has no authority to direct such an inspection, and the motions are HEREBY DENIED.

Plaintiff filed a Motion for Entry of Default [#36], contending that Defendants had not timely answered the Complaint. All Defendants have entered an appearance, and the motion is HEREBY DENIED.

Plaintiff filed a document apparently challenging his consent that the undersigned hear his case [#41]. The record of the omnibus hearing confirms that the process of consent was explained to Plaintiff, and all parties voluntarily executed the appropriate consent forms. Plaintiff's motion [#41] is denied; if he desires, he may challenge the consent on appeal, after entry of Final Judgment.

Plaintiff filed a motion to proceed *in forma pauperis* [#42] to appeal the Order of the Court dismissing Defendant American Correctional Association. After a Final Judgment in this case is entered, Plaintiff may refile his request to proceed *in forma pauperis* on appeal if he desires. Accordingly, the motion [#42] is HEREBY DENIED without prejudice.

Plaintiff filed an "Order to Amend Petition for Pleading Special Matters (Rule 9) of Civil Contempt" [#44]. His requests are not authorized under the applicable law and rules of the Court, and the motion is HEREBY DENIED.

Plaintiff filed an "Order to Amend Additional Defendant, Mr. Lee" [#47], requesting that he be allowed to amend to include a claim against "Mr. Lee." The amendment fails to state a constitutional claim upon which relief could be granted, and the motion is HEREBY DENIED.

Plaintiff filed an "Order to Amend" [#49], an "Order to Amend/ Complaint" [#51], and an "Order to Amend Chapter 43 RICO Act" [#52"]. Plaintiff does not attach a proposed amended complaint which clearly sets forth constitutional claims upon which relief could be granted against any named Defendant. Accordingly, these motions to amend are HEREBY DENIED. If Plaintiff wishes to file additional complaints regarding the matters set forth therein, he may do so. The pleadings in this case will not be amended at this late date, as one Defendant has been dismissed, and a dispositive motion has been filed by Defendant Christopher Epps.

The Court will consider Defendant's Motion to Dismiss, or in the Alternative, for Summary Judgment [#45], as well as Plaintiff's response thereto [#48]; a ruling on that motion shall be rendered in the near future.

IT IS, THEREFORE, ORDERED that the motions set forth above, numbers 34, 36, 37, 41, 42, 44, 47, 49, 51, and 52, are hereby GRANTED and/or DENIED for the reasons set forth herein.

SO ORDERED, this the 4th day of August, 2009.

/s/ Linda R. Anderson  
UNITED STATES MAGISTRATE JUDGE