

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

KERRY McINTYRE,)
)
Plaintiff,)
)
v.) No. 2:13CV00017 DDN
)
ROBERT BLISS, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion for reconsideration and motion for subpoena duces tecum.

On April 25, 2013, the Court reviewed this action under 28 U.S.C. § 1915A and determined that plaintiff's allegations failed to state a claim against defendant James Hurley because plaintiff was attempting to hold Hurley liable under the doctrine of respondeat superior. Plaintiff argues that he stated a viable claim for supervisor liability under 42 U.S.C. § 1983 because he alleged that Hurley had actual knowledge of an abusive pattern of behavior by defendant Bliss and Hurley failed to intervene and protect inmates from Bliss's abuse. Upon reconsideration, the Court finds that plaintiff has stated a plausible claim for relief against Hurley. And as a result, the Court will order the Clerk to serve process on Hurley.

Plaintiff requests a subpoena duces tecum for the purpose of obtaining an address where defendant Randy Hays can be served. The Court will deny the motion. However, the

Court will direct defendants to submit to the Court, in camera, the last known address for Defendant Hays.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for reconsideration [ECF No. 27] is **GRANTED**.

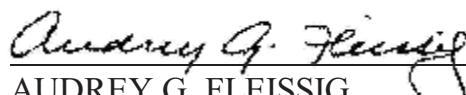
IT IS FURTHER ORDERED that the Clerk shall reinstate James Hurley as a defendant in this action.

IT IS FURTHER ORDERED that the Clerk shall issue process or cause process to issue as to James Hurley.

IT IS FURTHER ORDERED that plaintiff's motion for a subpoena duces tecum [ECF No. 25] is **DENIED**.

IT IS FURTHER ORDERED that defendants shall notify the Court, in camera, of the last known address for defendant Randy Hays. Defendants' written response to this Order should be mailed directly to the chambers of United States Magistrate Judge David D. Noce at 111 S. 10th St., Suite 17.156, St. Louis, MO 63102.

Dated this 31st day of May, 2013.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE