

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**YUSUF BROWN,**

**Plaintiff,**

v.

**Civil Action 2:10-cv-822  
Judge GREGORY L. FROST  
Magistrate Judge E.A. Preston Deavers**

**WARDEN ROSS CORRECTIONAL  
INSTITUTION, et al.,**

**Defendants.**

**ORDER**

Plaintiff asks the Court to order the United States Marshals Service to serve subpoenas on Gary C. Mohr (ECF No. 42-1) and Charlie Heiss (ECF No. 51-1). For the reasons that follow, the Court **GRANTS** Plaintiff's unopposed Motions of Issuance of Subpoenas. (ECF Nos. 42 and 51.)

Plaintiff is proceeding *in forma pauperis*. Consequently, pursuant to 28 U.S.C. §1915(d), “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.” 28 U.S.C. §1915(d). This provision requires the Marshals Service to serve an indigent party's subpoena duces tecum. A court, however, may exercise its discretion to screen such a subpoena request, relieving the Marshals Service of its duty when appropriate. *See* 9A C. Wright & A. Miller, Federal Practice and Procedure § 2454, p. 244–46 n. 21 (3d ed. 2010) (citations omitted).

Here, upon review of Plaintiff's unopposed Motions and the attached subpoenas, the

Court finds no circumstances warranting an exception to the Marshals Service's statutory duty under §1915(d). The Court therefore **GRANTS** Plaintiff's Motions. (ECF Nos. 42 and 51.) The Court **DIRECTS** the United States Marshal to serve ECF No. 42-1 on Gary C. Mohr and ECF No. 51-1 on Charlie Heiss. Because the subpoenas do not require witness attendance, Plaintiff is not required to tender fees and mileage for one day's attendance. *See* Fed. R. Civ. P. 45(b)(1). The Court cautions Plaintiff, however, that his *in forma pauperis* status does not exempt him from payment of such fees and mileage, where applicable. *See Smith v. Yarrow*, 78 F. App'x 529, 544 (6th Cir. 2003) (citation omitted) ("A prisoner plaintiff proceeding *in forma pauperis* may seek a waiver of certain pretrial filing fees, but there is no constitutional or statutory requirement that the government or [d]efendant pay for an indigent prisoner's discovery efforts.").

**IT IS SO ORDERED.**

Date: April 18, 2011

/s/ Elizabeth A. Preston Deavers

Elizabeth A. Preston Deavers  
United States Magistrate Judge