

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

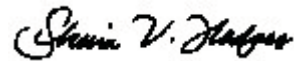
Claude E. Lydia,)	C/A No.: 1:11-23-MBS-SVH
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
Ms. Henderson, Officer; Ms. Luna,)	
Officer; Ms. Blackwell, Officer; Mr.)	
Lemmons, Officer,)	
)	
Defendants.)	
_____)	

Plaintiff, proceeding *pro se* and in forma pauperis, brought this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights while he was a pretrial detainee incarcerated at Cherokee County Detention Center (“CCDC”). This matter is before the court on Plaintiff’s Motion for Subpoenas [Entry #61]. All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.).

Plaintiff’s motion for subpoenas requests twelve subpoenas in order to secure the presence of witnesses for Plaintiff. Although a subpoena is the proper method for compelling attendance of a witness at trial, Plaintiff has failed to provide the proper form or the necessary witness fees. There is no requirement under 28 U.S.C. § 1915 that the court pay costs incurred with regard to a subpoena such as witness fees. *See Badman v. Stark*, 139 F.R.D. 601, 604 (M.D.Pa. 1991) (inmates proceeding under 28 U.S.C. § 1915 are not entitled to have their discovery costs underwritten or waived); *Johnson v. Hubbard*, 698 F.2d 286, 288–291 & nn. 2–5 (6th Cir.) (lower courts have no duty to pay fees to secure

depositions in civil, non-habeas corpus cases), *cert. denied*, 464 U.S. 917 (1983); *United States Marshals Serv. v. Means*, 741 F.2d 1053, 1057 (8th Cir.1984) (holding that 28 U.S.C. § 1915(c) does not require government payment of witness fees and costs for indigent plaintiffs in § 1983 suits). If Plaintiff wishes to obtain subpoenas, he may do so by contacting the Clerk of Court and providing the Clerk's office with a completed Form AO 88 (Subpoena in a Civil Case), together with the necessary witness fees. Plaintiff will have ample time to submit the same after a trial date is set. Therefore, Plaintiff's motion for subpoenas [Entry #61] is denied at this time with leave to re-file after he has tendered a properly completed AO 88 form and the necessary witness fees.

IT IS SO ORDERED.



October 24, 2011
Florence, South Carolina

Shiva V. Hodges
United States Magistrate Judge