

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-3752

Terry Antonio Lee

Plaintiff - Appellant

v.

Kevin Patterson, Lt., Tucker Max; Mariquise McCan, Sgt., Tucker Max; Cierra Washington, Sgt.; Kerium Broadway, Sgt.; Does, Nessa, Sgt., Tucker Max; EARU; Board of Correction; Tucker Max; John and Jane; R. D. Refus, Sgt., Tucker Max; Numery, Sgt., Tucker Max; Jaylin Lee, Sgt., Tucker Max; K. Love, Commissary, Tucker Max; S. Scott, Capt., Tucker Max; Wright, Sgt., Tucker Max; Roosevelt Barden, Capt., East Arkansas Regional Unit; M. Kelly, Lt., East Arkansas Regional Unit; Watson, Lt., East Arkansas Regional Unit; Conway, Sgt., Tucker Max; Jackson, Sgt., Tucker Max; Smith, Sgt., Tucker Max; Stewart, Sgt., Tucker Max; Jordan B. Slayden, Lt., Tucker Max; Matthew Elias, Sgt., Tucker Max; Karma Throns, Lt., Tucker Max; Chrystal Ridley, Sgt., Tucker Max; Brandeisjha M. Burnett, Sgt., Tucker Max; Stewart, Lt., Tucker Max; Dycus, Assistant Warden, East Arkansas Regional Unit; Raymond Naylor, Internal Affairs Supervisor; Reed, Assistant Director; K. Randle, Major, East Arkansas Regional Unit; Etherly, Capt., East Arkansas Regional Unit; Dexter Payne, Director; William Straughn, Assistant Director; Thomas Rowland, Supervisor, Internal Affairs; Lay, Warden, East Arkansas Regional Unit; J. Andrews, Warden, East Arkansas Regional Unit; James Shipman, Warden, Tucker Max; Maurice Culcalger, Assistant Warden, Tucker Max; Joseph P. Mahoney, Major, Tucker Max; Clark, Capt., Tucker Max; Cantrell Bass, Capt., Tucker Max; Swiney, Lt., Tucker Max; Grant, Lt., Tucker Max; William Freeman, Capt., Tucker Max; Sarah Huckabee, Governor; Ery, Sgt., Tucker Max; Jermniy Lee, Sgt., Tucker Max; Anthony Jackson, Assistant Warden, EARU, ADC; Tyrone Allison, Major, ADC; Fidel Cobbs, Lt., ADC; Kierra V. Walker, Cpl., Federal Unit; Amanda Pasley, PREA Coor., ADC; Leavy Watson, III, Sgt., EARU, ADC; William McNary, Capt., EARU, ADC; Glenda Bolden, Lt., EARU, ADC; Cameron Moore, Lt., ADC; Cornelius A. Granville, Sgt., ADC; Jennifer Thompson, Medical, EARU, ADC; Douglas, Medical, EARU, ADC; Kelly McCaine, Medical, EARU, ADC; Sandra K. Davis, Sgt.; Roy Williams, Sgt./Lt., ADC; Anita Palmer, Sgt., EARU, ADC; April Brandon, Sgt., EARU, ADC; Paul Harris, Capt.; Daniels, Cpl., EARU, ADC; Karen Davis, Sgt., Tucker Max; Dona Davis, Sgt., Tucker Max; Tevon Smith, Sgt., East Arkansas Regional Unit; King, Sgt., East Arkansas Regional Unit; Jenkins, Mail Room Staff; East Arkansas Regional Unit; D. Lons, Mail Room Staff; East Arkansas Regional Unit; Casle, Lt., Tucker Max; C. Blizzard, APN; Tucker Max; Taylor, APN, Tucker Max; Haley Trantham; Isom, Sgt., Tucker Max; C. Jackosn, Sgt.; Tucker Max; Nessa, Sgt.; Tucker Max; Beasley, Sgt.; Tucker Max

Defendants - Appellees

Appeal from U.S. District Court for the Eastern District of Arkansas - Central
(4:23-cv-00808-BRW)

JUDGMENT

Before LOKEN, KELLY, and ERICKSON, Circuit Judges.

Appellant's motion for leave to proceed in forma pauperis has been considered and is granted. The full \$605 appellate and docketing fees are assessed against the appellant. Appellant will be permitted to pay the fee by installment method contained in 28 U.S.C. sec. 1915(b)(2). The court remands the calculation of the installments and the collection of the fees to the district court.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a). Appellant's motion for appointment of counsel is denied as moot.

May 20, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Stephanie N. O'Banion

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

TERRY LEE
ADC #120960

PLAINTIFF

v.

Case No: 4:23-cv-00808-BRW

KEVIN PATTERSON, *et al.*

DEFENDANTS

ORDER

On September 7, 2023, United States Magistrate Judge Patricia Harris entered an order informing Mr. Lee that he must file an amended complaint within 30 days.¹ Specifically, she directed Lee to

to file an amended complaint with a **short** and **concise** statement describing his claims. *See* Fed. Civ. Rule P. 8(d). Lee's complaint is 196 pages long with less than 30 pages of documents attached. Lee's amended complaint should be written on the form provided to him by this Court, his statement of claim should be no longer than ten pages. He may not rely on attached documentation to describe his claims. Lee must also specifically describe how *each* named defendant was personally involved in the alleged violation of his constitutional rights, and how he was injured as a result.²

Mr. Lee was also instructed to narrow his claims to those that arise out of one series of occurrences, and present questions of fact common to all defendants.³ Mr. Lee was warned that his complaint may be dismissed if he did not timely file an amended complaint as instructed.⁴

¹ Doc. No. 3.

² *Id.*

³ *Id.* (citing Fed. R. Civ. P. 18, 20, *Mosley v. Gen. Motors Corp.*, 497 F.2d 1330, 1333 (8th Cir. 1974) (Rule 20 permits "all reasonably related claims for relief by or against different parties to be tried in a single proceeding."); *Fulghum v. Allen*, 2015 WL 5667479 at *1 (8th Cir. 2015); *Harris v. Union Pacific R. Co.*, 2013 WL 1187719 (E.D. Ark. 2013); *Langrell v. Union Pacific R. Co.*, 2012 WL 3041312 (E.D. Ark. 2012)).

⁴ *Id.*

Lee subsequently filed a 219-page amended complaint which is not dated, and moved for more time to amend his complaint.⁵ Judge Harris allowed Lee until October 21, 2023, to file an amended complaint that complied with her directions in the September 7, 2023 order.⁶ Lee filed another amended complaint on October 26, 2023, which is post-marked October 24, 2023.⁷ This amended complaint is 89 pages long and lists a number of complaints against different defendants. Lee has therefore failed to comply with Judge Harris' order to amend his complaint and narrow his claims. Accordingly, this case is DISMISSED without prejudice for failure to comply with court orders and prosecute this case.⁸

IT IS SO ORDERED this 4th day of December, 2023.

BILLY ROY WILSON
UNITED STATES DISTRICT JUDGE

⁵ Doc. Nos. 9 & 11.

⁶ Doc. No. 14.

⁷ Doc. No. 22.

⁸ See *Miller v. Benson*, 51 F.3d 166, 168 (8th Cir. 1995) (District courts have inherent power to dismiss *sua sponte* a case for failure to prosecute, and exercise of that power is reviewed for abuse of discretion).

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Appendix B

TERRY LEE
ADC #120960

PLAINTIFF

v.

Case No: 4:23-cv-00808-BRW

KEVIN PATTERSON, *et al.*

DEFENDANTS

JUDGMENT

Pursuant to the order filed this date, judgment is entered dismissing this case without prejudice.

DATED this 4th day of December, 2023.

BILLY ROY WILSON

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Appendix E

TERRY LEE
#120960

PLAINTIFF

VS.

4:23-CV-00808-BRW

KEVIN PATTERSON, *ET AL.*

DEFENDANTS

ORDER

Plaintiff's Motion for Leave to Appeal *In Forma Pauperis* (Doc. No. 29) is DENIED, because an *in forma pauperis* appeal would not be taken in good faith.

Accordingly, within thirty days of the date of this Order, Plaintiff must either: (a) pay to this Court the \$605.00 appellate filing and docketing fees; or (b) file with the United States Court of Appeals for the Eighth Circuit an Application to Proceed Without Prepayment of Fees and Affidavit with an attached calculation sheet.

Plaintiff is directed to file any future documents or pleadings related to his appeal with the United States Court of Appeals for the Eighth Circuit.

IT IS SO ORDERED this 27th day of December, 2023.


Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Appendix D

TERRY LEE
ADC #120960

PLAINTIFF

v.

No: 4:23-cv-00808-BRW-PSH

KEVIN PATTERSON, *et al.*

DEFENDANTS

ORDER

Before the Court are several motions by Plaintiff Terry Lee.

Lee moves for more time to file an amended complaint (Doc. No. 11). On September 7, 2023, Lee was directed

to file an amended complaint with a **short** and **concise** statement describing his claims. *See* Fed. Civ. Rule P. 8(d). Lee's complaint is 196 pages long with less than 30 pages of documents attached. Lee's amended complaint should be written on the form provided to him by this Court, his statement of claim should be no longer than ten pages. He may not rely on attached documentation to describe his claims. Lee must also specifically describe how *each* named defendant was personally involved in the alleged violation of his constitutional rights, and how he was injured as a result.

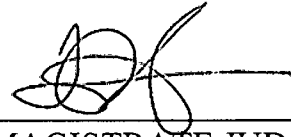
Doc. No. 3. His amended complaint was due October 8, 2023. On September 25, 2023, the Court received a 219-page amended complaint which is not dated. It does not comply with the Court's September 7, 2023 order. Lee now seeks additional time to amend his complaint because he has not had sufficient legal supplies. Lee's motion is GRANTED, and he will be afforded one more opportunity to file an

amended complaint that complies with the Court's September 7, 2023 order. That amended complaint must be filed on or before **October 21, 2023**.

Lee also moves for an order directing that he be provided certain camera footage, ink pens, writing paper, legal envelopes, stamps, and notary services (Doc. No. 12). That motion is DENIED. The Court has already directed the Clerk of Court is directed to send a copy of an order (Doc. No. 6) to the warden of the Maximum Security Unit, so that the warden can assist Lee in obtaining the supplies he needs to prosecute this case. Lee is not required to notarize his amended complaint. And Lee's request for camera footage is in effect a discovery request. His claims have not been screened and the defendants have not been served. Accordingly, it is premature for Lee to conduct any discovery at this time. For the same reasons, his request for copies of grievances (Doc. No. 13) is also DENIED. Lee should note that if and when defendants are served, his discovery requests and responses are not to be filed with the Court – but, instead, should be sent directly to opposing counsel, along with a certificate of service. *See* Fed. R. Civ. P. 5(d) (providing that “the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: (i) depositions, (ii) interrogatories, (iii) requests for documents or to permit entry upon the land, and (iv) requests for admissions”); *See* also Local Rule 5.5(c)(2)(stating that “[a]ny party proceeding *pro*

se shall be expected to be familiar with and follow the Federal Rules of Civil Procedure").

IT IS SO ORDERED this 3rd day of October, 2023.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

Appendix F

**TERRY LEE
ADC #120960**

PLAINTIFF

v.

No: 4:23-cv-00808-BRW-PSH

KEVIN PATTERSON, *et al.*

DEFENDANTS

ORDER

Before the Court is a motion by Plaintiff Terry Lee ("Plaintiff") to appoint counsel (Doc. No. 4). Plaintiff claims he has been denied ink pens, writing paper, legal envelopes, and other legal supplies. The Clerk of Court is directed to send a copy of this letter to the warden of the Maximum Security Unit, so that the warden can assist Plaintiff in obtaining the supplies he needs to prosecute this case.

Plaintiff's motion to appoint counsel is DENIED without prejudice. A civil litigant does not have a constitutional or statutory right to appointed counsel in a civil action, but the Court may appoint counsel at its discretion. 28 U.S.C. § 1915(e)(1). The Court has considered Plaintiff's need for an attorney, the likelihood that Plaintiff will benefit from assistance of counsel, the factual complexity of the case, the Plaintiff's ability to investigate and present his case, and the complexity of the legal issues. In considering these factors, the Court finds that Plaintiff's claims do not appear legally or factually complex, and it appears he is capable of

prosecuting his claims without appointed counsel at this time. Counsel will be appointed at the direction of the Court when and if it is deemed necessary.

IT IS SO ORDERED this 25th day of September, 2023.

A handwritten signature in black ink, consisting of a stylized 'D' followed by a horizontal line and a flourish.

UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Appendix E

TERRY LEE
ADC #120960

PLAINTIFF

v.

Case No: 4:23-cv-00808-BRW

KEVIN PATTERSON, *et al.*

DEFENDANTS

ORDER

On May 20, 2024, the United States Court of Appeals for the Eighth Circuit granted Plaintiff Terry Lee's application to proceed *in forma pauperis* and assessed the full \$505.00 appellate filing and docketing fees against him.¹ The Court of Appeals has remanded the collection of the fees to this Court.² Based on information contained in Lee's application for leave to appeal *in forma pauperis*, this Court does not assess an initial partial filing fee. Lee is obligated to make monthly payments in the amount of twenty percent (20%) of the preceding month's income credited to his trust account each time the amount in the account exceeds \$10.00. The Arkansas Division of Correction ("ADC") is required to send to the Clerk of the Court payments from Lee's prison trust account each time the amount in the account exceeds \$10.00, until the filing and docketing fees of \$605.00 are paid in full.³

The Clerk of the Court is directed to send a copy of this order to: (1) the Warden of the Maximum Security Unit, 2501 State Farm Road, Tucker, AR, 72168-8713; (2) the ADC Trust

¹ See Doc. No. 43.

² See *id.*

³ See 28 U.S.C. § 1915(b)(2).

Fund Centralized Banking Office, Post Office Box 8908, Pine Bluff, AR, 71611; and (3) the ADC Compliance Office, P.O. Box 20550, Pine Bluff, AR 71612-0550.

IT IS SO ORDERED this 21st day of May 2024.

BILLY ROY WILSON
UNITED STATES DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**