

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ARNOLD KING : CIVIL ACTION
 :
 v. :
 :
 DONALD T. VAUGHN, et al. : NO. 95-319

MEMORANDUM ORDER

Plaintiff has filed a Motion to Deny Defendants Motion for Summary Judgment or Issue an Order Directed to the Warden to Permit the Obtaining of Inmate Witnesses Signature to Their Affidavits.

Plaintiff contends that to respond to defendants' motion for summary judgment he needs to obtain inmate witness signatures for affidavits.

Plaintiff does not aver that he has been prevented from doing so, but rather that he distrusts the procedure he must utilize to obtain such signatures.

Plaintiff states that he must contact an institutional counselor and show that there is an active case. He must then identify the inmate witnesses and provide the affidavits to the counselor, who forwards them to the named individuals for signature. The affidavits are then returned to the requesting inmate.

Plaintiff submits that this procedure is inappropriate because it allows prison officials to read the affidavits and

creates a danger that retaliation will occur. Plaintiff does not aver that any potential witness has refused to sign an affidavit out of fear of retaliation or otherwise, or that any inmate was subjected to retaliation for executing an affidavit. Moreover, it is evident that any prison official or other person may readily obtain the testimony of an inmate or anyone else who testifies at a public trial. Presumably, plaintiff and any prospective witnesses understand that the purpose of an affidavit is to present to the court the testimony the affiant will give at trial.

Defendants point out that plaintiff has been given repeated extensions of time to file his answer, that only counselors would see any affidavits and that the process is similar to that used for screening inmate mail.

In any event, it is well established that prison authorities have a legitimate interest in regulating communications among prisoners and to insure that such communications are for a legitimate purpose and not for one that might implicate prison order and security. See Turner v. Safley, 482 U.S. 78, 91-92 (1987).

Plaintiff's repeated requests that action on this motion be deferred have been honored. The court finally granted plaintiff a "final opportunity" to file a response to defendants' motion. A response was still not forthcoming by the deadline.

Rather, a month after the final deadline to respond had passed, plaintiff filed the instant motion.

The court cannot permit litigation to pend indefinitely. Plaintiff has been afforded a very ample opportunity to file a response. Instead, he has presented an endless array of reasons for not doing so.

ACCORDINGLY, this day of December, 1997, upon consideration of plaintiff's Motion to Deny Defendants Motion for Summary Judgment or Issue an Order Directed to the Warden to Permit the Obtaining of Inmate Witnesses Signature to Their Affidavits, and defendants' response thereto, **IT IS HEREBY ORDERED** that plaintiff's Motion is **DENIED**.

BY THE COURT:

JAY C. WALDMAN, J.