

*Jayne et al.
Keller
C. Miller
Kradolff
CAL*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED

SEP 17 1996

B. Jones
#175

UNITED STATES OF AMERICA,
Plaintiff,

CV 94-90-H-CCL

-v-

THE STATE OF MONTANA; MARC RACICOT, in his official capacity as Governor of the State of Montana; MONTANA STATE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES; RICK DAY, in his official capacity as Director, Montana Department of Corrections and Human Services; ADMINISTRATOR OF THE CORRECTIONS DIVISION OF THE MONTANA DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES, in his official capacity; and MIKE MAHONEY, in his official capacity as Deputy Warden, Montana State Prison, and the Department of Corrections and Human Services,

Defendants.

ORDER

Before the court is Plaintiff's "Motion Relating to the Court's August 29, 1996 Order." In this motion, Plaintiff asks that (1) the time for response to the Defendants' Motion to

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Compel be extended to September 20, 1996; (2) the time for Plaintiff to name its witnesses be extended to October 7, 1996, and the time for the Defendants' to name their witnesses be correspondingly extended until October 15, 1996; (3) the Defendants be required to give the United States any additional material that is placed in the prison file of any inmate on Plaintiff's witness list after the close of discovery; and (4) the court clarify that the parties may conduct videotaped examinations of inmates incarcerated in Texas (for the purpose of presentation of evidence to the court) after the discovery deadline.

Defendants oppose the second and third request enumerated above.

The court is disappointed that Plaintiff has not made significant progress in preparing its witness list for the trial of this matter. The principal reason the court was compelled to delay the trial date of September 16, 1996, was because it was apparent that Plaintiff was not prepared for trial. Now, because of this proposed three-week delay in disclosing its witness list, Plaintiff forces a choice between taking three weeks of discovery away from Defendants or delaying the trial yet again. The court does not want to delay the trial, but the parties must prepare

the case to the best of their abilities. Plaintiff must provide timely discovery so that Defendants are fairly apprised of Plaintiff's case before trial. It is unfortunate that this means the trial is to be delayed again.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion relating to the court's August 29, 1996 order is GRANTED in its entirety. Plaintiff shall name its witnesses on or before October 7, 1996, and Defendants shall name their witnesses on or before October 22, 1996. At the same time Plaintiff and Defendants shall also file a new amended proposed final pretrial order, inter alia setting forth the identity of their proposed witnesses. The discovery deadline shall be November 22, 1996.

IT IS FURTHER ORDERED that the trial date of December 2, 1996, and the final pretrial conference hearing on November 20, 1996, are both VACATED. The trial is RESET for Monday, January 27, 1997, at 9:30 o'clock a.m., and the final pretrial conference is RESET for Friday, December 13, 1996, at 11:00 o'clock a.m., both proceedings to be held in the courtroom, United States Courthouse, Helena, Montana.

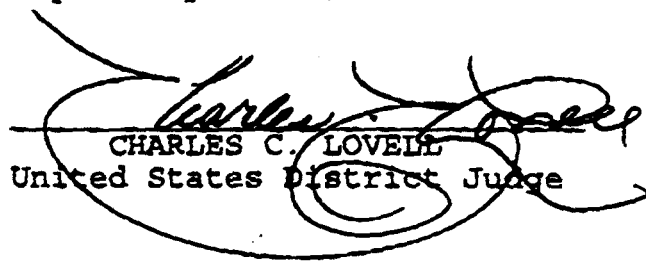
Both parties shall file pretrial briefs on or before December 6, 1996; the pretrial briefs shall include a trial

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exhibit list, with objections noted thereon, and two bound copies of the trial exhibits.

The Clerk is directed forthwith to notify the parties of entry of this order.

Done and dated this 17 day of September, 1996.


CHARLES C. LOVELL
United States District Judge