


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2007 MAY -4 PM 2:07

CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY  DEPUTY

RAUL MEZA, §
PLAINTIFF, §

V. §

BRAD LIVINGSTON, §
EXECUTIVE DIRECTOR OF THE TEXAS §
DEPARTMENT OF CRIMINAL JUSTICE, §
IN HIS OFFICIAL CAPACITY; §
BRIAN COLLIER, DIRECTOR OF THE §
TEXAS DEPARTMENT OF CRIMINAL §
JUSTICE PAROLE DIVISION, IN HIS §
OFFICIAL AND INDIVIDUAL §
CAPACITIES; AND RISSIE L. OWENS, §
JOSE ALISEDA, CHARLES AYCOCK, §
CONRITH DAVIS, JACKIE §
DENOYELLES, LINDA GARCIA, AND §
JUANITA M. GONZALES, IN THEIR §
OFFICIAL CAPACITIES AS MEMBERS §
OF THE TEXAS BOARD OF PARDONS §
AND PAROLES, §
DEFENDANTS. §

CAUSE NO. A-05-CA-1008-LY

ORDER

Before the Court is Plaintiff Meza's Motion to Exclude Testimony of Defendants' Experts filed April 20, 2007 (Clerk's Document 147). By his motion, Meza requests that this Court exclude the testimony of Defendants Livingston and Collier's expert witnesses pursuant to Federal Rule of Civil Procedure 37(c). In the alternative, Meza requests that this Court order Livingston and Collier to produce a written report prepared and signed by each expert witness designated by Livingston and Collier pursuant to Federal Rule of Civil Procedure 26(a)(2)(B).

Livingston and Collier's response to Meza's motion was due on May 1, 2007. *See* W.D. Tex. Local R. CV-7(d) (requiring party opposed to motion to respond within eleven days of service of

motion and allowing district court to grant motion as unopposed if no timely response is filed). To date, however, Livingston and Collier have filed no response to Meza's motion. Thus, pursuant to Local Rule CV-7(d), Meza's motion may be granted as unopposed. *Id.* Federal Rule of Civil Procedure 26(a)(2)(B) requires that a party's disclosure of witnesses be accompanied by "a written report prepared and signed by the witness" in the case of any "witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony," unless otherwise ordered by the court. Having considered the motion, the case file, and the applicable law, this Court is of the opinion that the motion should be granted as follows.

IT IS THEREFORE ORDERED that Meza's Motion to Exclude Testimony of Defendants' Experts (Clerk's Document 147) is **GRANTED** to the extent that Livingston and Collier shall provide written reports containing the information set forth in Federal Rule of Civil Procedure 26(a)(2)(B) to all parties **on or before May 18, 2007**, for each witness designated in Livingston and Collier's April 18, 2007 Designation of Expert Witnesses to the extent that such witness will be asked at trial to express an opinion on any matter. In all other respects, Meza's motion is **DENIED**.

SIGNED this 4th day of May, 2007.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE