

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

PAUL MARRIOTT,
Plaintiff,

v.

Civil Action No.
5:03-CV-0531 (DNH/DEP)

COUNTY OF MONTGOMERY, *et al.*

Defendants.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

KEACH LAW FIRM
One Steuben Place
Albany, NY 12207

ELMER R. KEACH III, ESQ.

BERANBAUM, MENKEN LAW FIRM
3 New York Plaza
New York, New York 10004

JASON J. ROZGER, ESQ.

FOR DEFENDANTS:

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER, LLP
150 East 42nd Street
New York, New York 10017-5639

JOSEPH L. FRANCOEUR, ESQ.
THERESA MARANGAS, ESQ.

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

ORDER

Currently pending before the court in connection with this civil rights
action is a discovery dispute involving four separate and discrete issues.

Following the submission by the parties of letter briefs and attachments other materials relating to the questions raised, a verbal ruling was issued on February 12, 2004 during a digitally recorded telephone conference held on that date, resolving each of the four issues.

Now, upon due deliberation, and incorporating herein by reference the aforementioned oral decision, it is hereby

ORDERED as follows:

1) Plaintiff's motion for permission to inspect portions of the Montgomery County Jail, pursuant to Rule 34 of the Federal Rules of Civil Procedure, is GRANTED, subject to certain conditions. Plaintiff's counsel shall be permitted to conduct an inspection of the booking room, and shower and storage area, of the Montgomery County Jail, and to videotape that inspection. The inspection shall be limited in duration to one hour, and no more than five persons, excluding the videographer, shall participate in the inspection on the behalf of the plaintiff. During the inspection, no conversations with inmates or defendants' employees shall occur, and all questions from the plaintiff's representations should be directed to defendants' counsel. Additionally, to the extent practicable videotaping shall not include any inmates or jail personnel. The inspection shall occur on a day, and at a time, to be agreed upon among counsel,

and consideration should be given to minimization of the disruption and legitimate safety concerns associated with such an inspection.

2) Based upon the defendants' agreement to stipulate, for purposes of this action, that the procedures and/or practices currently in effect at the Montgomery County Jail regarding the booking, admission and searching of pretrial detainees at the facility are the same as those in existence and testified to by former jail administrator John Pecora prior to his leaving the county's employ in or about August of 2003, plaintiff's request for an order compelling the production of a further Rule 30(b)(6) deposition witness on behalf of the County is hereby DENIED.

3) Defendants' request for a protective order limiting the plaintiff in his ability to conduct depositions in this action is DENIED, without prejudice.

4) Plaintiff's application for an award of costs associated with the instant motion and the Rule 30(b)(6) deposition of Jeffrey Smith is DENIED, without prejudice.

5) The clerk is directed to promptly forward copies of this order to counsel for the parties, both electronically and by first class mail.

A handwritten signature in black ink, appearing to read "David E. Peebles", written over a horizontal line.

David E. Peebles
U.S. Magistrate Judge

Dated: February 17, 2004
Syracuse, New York