

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**KEON V. LIPSCOMB,**

**Plaintiff,**

**v.**

**EZEKIEL OWENS, *et al.*,**

**Defendants.**

**Case No. 24-cv-02508-SPM**

**MEMORANDUM AND ORDER**

**MCGLYNN, District Judge:**

On July 21, 2025, the Court entered an Initial Scheduling and Discovery Order that included a deadline of September 19, 2025, for Plaintiff to identify the John Doe Defendant. (Doc. 32). The Court extended this deadline twice, and after Plaintiff failed to file a motion to substitute, on December 3, 2025, the John Doe Defendant was dismissed. (Doc. 40).

Currently before the Court is a Motion to Substitute filed by Plaintiff seeking to substitute Sergeant Kempfer for the John Doe Defendant. (Doc. 41). Plaintiff asks that the Court excuse his delay in identifying the John Doe and states that Defendants will not be prejudiced in anyway by allowing the late substitution. Defendants do not oppose the motion.

The Court finds good cause in modifying the Scheduling and Discovery Order one last time and allowing Plaintiff to identify the John Doe Defendant. FED. R. CIV. P. 16(b)(4). The reason for the delay in identifying the John Doe is unclear. Plaintiff simply states that he was unable to identify the John Doe by the deadline set by the Court. After the Court dismissed the John Doe, however, Plaintiff acted with diligence and filed his Motion to Substitute within a matter of days. Furthermore, this case is still in the early stages. Merits discovery has been stayed, and

the Court prefers for the case to be decided on the merits rather than procedural grounds or technicalities. For these reasons, the Court finds that the Scheduling and Discovery Order should be amended, and Plaintiff's Motion to Substitute granted.

The Court therefore **DEEMS** Plaintiff's Motion to Substitute timely filed. (Doc. 41). The Court's Order at Doc. 40 dismissing the John Doe Defendant is **VACATED in part**. Plaintiff's Motion to Substitute is **GRANTED**. (Doc. 41). Sgt. Ethan Kempfer is **SUBSTITUTED** for the John Doe. The Clerk of Court is **DIRECTED** to **SERVE** Sgt. Ethan Kempfer in accordance with the Court's Merits Review Order. (Doc. 11). Warden Wills remains dismissed.

**IT IS SO ORDERED.**

**DATED: December 29, 2025**

*s/Stephen P. McGlynn*  
**STEPHEN P. MCGLYNN**  
**United States District Judge**