

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 13-CV-22196-WILLIAMS

ALEXANDER S. BRADLEY,

Plaintiff,

v.

AARON HERNANDEZ,

Defendant.

**Defendant's Unopposed Motion for Leave to Depose Plaintiff In Prison**

Defendant, Aaron Hernandez ("**Defendant**"), through his undersigned counsel and pursuant to Rule 30(a)(2)(B) of the Federal Rules of Civil Procedure, moves the Court to enter an order granting Defendant leave to take the deposition of Plaintiff, Alexander S. Bradley ("**Bradley**" or "**Plaintiff**") who, upon present information and belief, is currently a prisoner incarcerated at the Cheshire Correctional Institution in Cheshire, Connecticut. In support of his motion, Defendant submits the following memorandum and requests entry of the proposed order attached hereto as **Exhibit 1**.

**MEMORANDUM**

**I. Background**

1. On June 11, 2014, the Court entered an order scheduling this action for trial during the trial calendar beginning June 29, 2015, and setting pretrial deadlines [DE 33] (the "Trial Order").

2. In order to prepare for trial, Defendant will need to take the deposition of Bradley and, because he is incarcerated, an order of this Court is required.

## **II. Legal Argument**

Federal Rule of Civil Procedure 30(a)(2)(B) governs the taking of depositions of incarcerated persons. That Rule requires a party to obtain leave of court to depose an individual who is confined in prison. Additionally, Rule 30(a)(2) provides that a “court must grant leave to the extent consistent with Rule 26(b)(2).” *See Harris v. Johns*, 2007 WL 2433900 (M.D. Fla. 2007).

Upon information and belief, Bradley is currently incarcerated in Connecticut on charges of criminal possession of a firearm, criminal use of a firearm, unlawful discharge of a firearm, stealing a firearm, and first-degree reckless endangerment brought by the State of Connecticut. Upon information and belief, Bradley is alleged to have fired multiple shots into an occupied Hartford, Connecticut bar during February 2014.

A defendant’s taking of the deposition of the plaintiff falls squarely within the scope of discovery permitted by Rule 26(b)(2). Defendant requests that the Court grant him leave to depose Plaintiff. Defendant intends to take the deposition in October or November, 2014 and will coordinate the deposition dates with the officials at the Cheshire Correctional Institution, or the facility that houses Plaintiff at the time of his deposition, to ensure compliance with the correctional facility’s deposition policies and procedures. *See Harris v. Johns*, 2007 WL 2433900 (M.D. Fla. 2007) (granting party leave to depose confined deponent and instructing counsel to confer with the appropriate official at the institution where the deponent was incarcerated).

### **LR 7.1 Certification**

Undersigned counsel certifies that he contacted Plaintiff’s Miami counsel Andrew L

Waks by telephone in a good faith effort to resolve the issues raised in this motion and is authorized to advise the Court that Plaintiff does not oppose this motion.

WHEREFORE, Defendant Aaron Hernandez respectfully requests that the Court grant him leave to depose Plaintiff Alexander Bradley, who is currently incarcerated, and grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

**SHUTTS & BOWEN LLP**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 22, 2014, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF on the persons on the below service list.

/s/ Stephen B. Gillman  
of counsel

**SERVICE LIST**

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# EXHIBIT 1

UNITED STATES DISTRICT COURT  
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ALEXANDER S. BRADLEY,

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**ORDER GRANTING DEFENDANT'S UNOPPOSED  
MOTION FOR LEAVE TO DEPOSE PLAINTIFF IN PRISON**

This matter came before this Court on Defendant's Unopposed Motion for Leave to Depose Plaintiff in Prison (the "Motion") and the Court, having reviewed the Motion, having been advised that the Motion is unopposed and being otherwise fully advised in the premises, finds cause has been presented for the taking of Plaintiff, Alexander Bradley's, deposition while he is incarcerated.

**IT IS HEREBY ORDERED** as follows:

1. Defendant's Unopposed Motion for Leave to Depose Plaintiff in Prison is **GRANTED** and Defendant may notice and take the deposition of Alexander Bradley at the Cheshire Correctional Institution in Cheshire, Connecticut or such other correctional facility as Plaintiff may be incarcerated. Counsel for Plaintiff is instructed to confer with the appropriate official at the correction facility to coordinate the logistics of the deposition.

**DONE and ORDERED** in Chambers in Miami, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2014.

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KATHLEEN M. WILLIAMS  
United States District Judge