



McNeill v. Johnson et al

2019 | Cited 0 times | W.D. North Carolina | August 20, 2019

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA

CHARLOTTE DIVISION

3:18-cv-188-FDW JAMES C. McNEILL,)

Plaintiff,)

vs.) ORDER

MARQUHNE BENJAMIN JOHNSON, et al.,)

Defendants.) _____)

THIS MATTER comes before the Court on pro se Request for Production of Documents, (Doc. No. 33), and Motions to Compel Discovery, (Doc. Nos. 35, 40, 49, 52).

The Complaint passed initial review on claims of the use of excessive force and a disciplinary due process violation. (Doc. Nos. 1, 10). The Court entered a Pretrial Scheduling Order setting the discovery cutoff date as March 27, 2019 and the dispositive motion due date as April 26, 2019. (Doc. No. 29).

The rules of discovery are to be accorded broad and liberal construction. See *Herbert v. Lando*, 441 U.S. 153, 177 (1979); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). All civil discovery, whether sought from parties or nonparties, is limited in scope by Rule 26(b)(1) in two ,

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Cir. 2019) (quoting Fed. R. Civ. P. 26(b)(1)).

Id. Whether to grant

1 Id.

Request for Production of Documents, (Doc. No. 33), will be denied because it is a discovery request



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that was misdirected to the Court. See LCvR 26.2 reports, discovery requests or responses thereto, deposition transcripts, or other discovery material

unless: (1) directed to do so by the Court; (2) such materials are necessary for use in an in-court ; (Doc. No. 29 at 2) (Pretrial Order and Case Management Plan).

Plaintiff has also filed a number of Motions to Compel that will be addressed in turn. First, Plaintiff alleges that he was unable to view video surveillance footage that he requested because Officer Morgan, whom Plaintiff had accused of threats and harassment, was one of the escorting officers. (Doc. No. 35). Plaintiff asks that he be granted the opportunity to view the video footage safely. Defendants Graham, Lane, Morrison, White, and Williams filed a Response and supporting evidence indicating that Plaintiff was provided several opportunities to view the videotape outside the presence of Officer Morgan and Plaintiff refused. (Doc. Nos. 41-4, 41- Compel seeking yet another opportunity to view the videotape footage will therefore be denied.

Plaintiff moves to compel the production of the following documents: (1) DPS Heath Service Policy & Procedure Manual; (2) pages 15-27 and 49-59 of the discovery responses including disciplinary investigation & hearing records; (3) DPS policy on unit management and employee training, administrative seg, intensive control and conditions of confinement; and (4) Health Services Medical Policy & Procedures. (Doc. Nos. 40, 49). Defendants Graham, Lane, Morrison, White, and Williams have filed a Response arguing that Plaintiff is not entitled to the Health Care Policy Manual because the request is overly broad, the document is irrelevant to this case and extensive, and it will not be produced unless Plaintiff makes a more specific request. (Doc. No. 41). Defendants explain that the other materials have either been produced already or were produced with the Response. (Id.). s to Compel the production of documents will be denied because Defendants have raised valid objections with regards to the Health Services Medical Policy & Procedures and Plaintiff has already been provided the other materials. Plaintiff also filed a Motion to Compel addressing his requests for admissions and interrogatories. (Doc. No. 49). He argues that Defendants improperly refused to respond to questions about individuals who p the excessive force incident because it was confusing. (Doc. No. 49). Defendants Graham, Lane, Morrison, White, and Williams filed a Response, supported by exhibits, explaining that they objected because is

that contained that term. (Doc. No. 55 at 5-7). The record indicates that Defendants complied with their discovery ob to Compel with regards to his requests for admissions and interrogatories will be denied. Finally, Plaintiff asks that he be provided with an additional set of discovery because prison

to Compel will be denied as moot because Defendants have supplied Plaintiff with an additional copy of the discovery materials, (Doc. Nos. 54, 52), and Plaintiff admits that most of his case materials have been returned, (Doc. No. 56).

IT IS, THEREFORE, ORDERED that 1. Request for Production of Documents, (Doc. No. 33), is



McNeill v. Johnson et al

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DENIED. 2. Motions to Compel Discovery, (Doc. Nos. 35, 40, 49, 52), are DENIED. Signed: August 19, 2019

