

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DAVID A. BROWN,

Plaintiff,

:

Case No. 3:08-cv-141

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

:

OFFICER MALICKI, et al.,

Defendants.

DECISION AND ORDER ON PLAINTIFF'S MOTION FOR COMPLIANCE

This case is before the Court on Plaintiff's Motion for Compliance (Doc. No. 31).

On February 25, 2009, the Court entered its Decision and Order on Motions for Discovery (Doc. No. 27) in which Defendants were ordered to treat Plaintiff's Motion for Discovery (Doc. No. 25) as an interrogatory and Plaintiff's Motion for Correction of the Record as a request for production of documents. In the instant Motion, Plaintiff complains that Defendants did not comply.

Plaintiff has not submitted Defendants' responses to the Court for consideration, so the Court cannot see what was done. Given that Plaintiff is incarcerated, his ability to make copies is probably severely limited. The Court could order Plaintiff to comply with the other formalities required by Fed. R. Civ. P. 37, but that seems inappropriate, given the pendency of summary judgment motions.

In lieu of the formalities required by Fed. R. Civ. P. 37, it is hereby ORDERED:

1. Plaintiff asserts that 34 photographs were taken of 15 Southern and that copies of only 13 of those have been produced to him. If there exists an additional 21 photographs, Defendants shall forthwith furnish copies to Plaintiff.
2. If Defendants know which officers entered the front of 15 Southern on March 30, 2006, they

shall identify those officers to Plaintiff forthwith.

3. Defendants shall file with the Court an account of what they have done in response to this Order.

April 9, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge