

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION

EMANUEL DEVOISE,
ADC #80821

PLAINTIFF

v.

2:08CV00161HLJ

STEPHEN LANE

DEFENDANT

ORDER

This matter is before the Court on plaintiff's motion to compel production (DE #16). Defendant has filed a response in opposition to the motion (DE #17).

In support of the motion, plaintiff objects to responses provided by defendant to his request for production of documents. Plaintiff also states he attempted to resolve this matter in good faith, by sending a written request to defense counsel, who has taken no steps to resolve the matters. In his response, defendant states no such effort was made by plaintiff to resolve this matter prior to the filing of the motion, and asks the Court to deny the motion on that basis and for failure to file a brief in support of the motion.

The specific requests about which plaintiff complains, and defendant's responses, are as follows:

1) Request for production, No. 2 - Plaintiff states he asked for copies of Arkansas Department of Correction (ADC) policies concerning use of force, restraints and incident reports. Plaintiff states defendant's response that such policies are available in the Unit law library is inapplicable to him as he is housed in the administrative segregation section of the Unit.

In response, defendant states those policies are available for plaintiff to check out of his Unit law library, and certain procedures are in place for inmates housed in the administrative segregation

area of the Unit to request to review items from the law library.

2) Request for production, No. 4 - Plaintiff asked for copies of his medical records, stating that merely viewing such is insufficient for his purposes. In his response, defendant states the policy of Correctional Medical Services, Inc. (CMS), the medical care provider for the ADC, is to not allow copies of medical records to be issued to inmates. Rather, they may review their records and take notes from them, upon proper request.

3). Request for production, No. 3 - Plaintiff states he asked for a copy of the original handwritten disciplinary charge written against him, and defendant provided only a typed version of the same. Defendant responds plaintiff's original request was misunderstood, and the type of copy he originally requested has now been provided.

4) Requests for production, Nos. 5-8 - Plaintiff states defendant did not even attempt to respond to these. Defendant responds that he inadvertently overlooked that page of plaintiff's requests, and has now provided such to him.

In light of defendant's responses to plaintiff's requests and to the present motion, the Court finds the responses to Requests Nos. 2 and 4 are appropriate, and that plaintiff should make arrangements to check out these materials from his Unit law library and to view his medical records. In addition, the Court finds the remaining requests moot, as defendant states he has now complied with plaintiff's requests. In the future, the Court will also enforce the provisions of Local Rule 7.2, which require a brief in support of a motion, together with a certification that the parties have conferred in an attempt to resolve what ever dispute has arisen between them. Accordingly,

IT IS, THEREFORE, ORDERED that plaintiff's motion to compel (DE #16) is hereby **DENIED** without prejudice.

IT IS SO ORDERED this 13th day of January, 2009.

Henry L. Jones, Jr.

United States Magistrate Judge