

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

LEE BAKER

PLAINTIFF

V.

CIVIL NO. 4:14-cv-04104

JANA TALLANT, ET AL

DEFENDANT

ORDER

This is a civil rights action filed by Plaintiff, Lee Baker, pursuant to the provisions of 42 U.S.C. § 1983 case. Plaintiff proceeds *pro se* and *in forma pauperis*. Currently before the Court is Plaintiff's Motion to Compel. ECF No. 45. Defendants filed a response to Plaintiff's Motion on April 8, 2016. ECF No. 46.

In his Motion, Plaintiff requests the Court to compel Defendants to produce information from the Howard County Detention Center pertaining to policies and procedures for protecting inmates at risk for sexual abuse or harassment, any training Defendants received to prevent such sexual abuse, and any policy for reporting such abuse. ECF No. 45. In addition, Plaintiff asks the Court to Compel Defendants to provide him with Arkansas Department of Corrections numbers and addresses for Brandon Null, Chance Hale, and Louis Richard so their depositions can be taken. Finally, Plaintiff asks the Court to compel Defendants to release the last known address for Chris Turner and Jason Pettit. Plaintiff claims these individuals are material witnesses for his case that can supply information in regards to the "Jail Administrator and jailor's incompetence in answering or reporting incidents or grievances to the sexual abuse that occurred". ECF No. 45.

In their Response, Defendants represent to the Court that pursuant to the Court's Initial Scheduling Order issued May 1, 2015 (ECF No. 19) they provided Plaintiff with a copy of his

entire jail file and all policies pertaining to his allegations. ECF No. 46-1. Defendants also correctly point out that the discovery deadline in this case was August 29, 2015. ECF No. 19.

On January 15, 2016, this Court issued the Final Scheduling Order noting that “**ALL DISCOVERY AND DISPOSITIVE MOTIONS DEADLINES HAVE PASSED**”. ECF No. 42. Even after the Court issued the Final Scheduling Order, more than four months past the discovery deadline, Defendants responded to a letter from Plaintiff requesting current addresses for Louis Richard, Chris Turner, and Jason Pettit. ECF 46-2. Defendants represent that they have searched for the other individuals’ addresses requested by Plaintiff and have not been able to locate any information other than for Louis Richard. ECF No. 46.

Pursuant to the Federal Rules of Civil Procedure a party is obligated to produce documents within its “possession, custody, or control.” Fed. R. Civ. P. 34(a)(1). Pursuant to Federal Rule of Civil Procedure 26(b)(1):

Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense—including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence

There is no basis to compel Defendants to produce what they do not have in their possession, custody or control. In addition, the deadline for discovery passed more than seven months ago.

Accordingly, Plaintiff’s Motion to Compel (ECF No. 45) is **DENIED**.

IT IS SO ORDERED this 14th day of April 2016.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE