

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 10-cv-00334-PAB-KMT

JEFFREY ALLEN PHILLIPS,

Plaintiff,

v.

SUSAN TIONA, Doctor, Kit Carson Correctional Center,
HOYT BRILL, Warden, Kit Carson Correctional Center,
JODI GRAY, Health Administrator, Kit Carson Correctional Center, and
CORRECTIONS CORPORATION OF AMERICA, owner of private prison KCCC,

Defendants.

ORDER

This matter is before the court on Plaintiff's "Motion to Compel" (Doc. No. 155 [Compel]) and Defendants' "Motion for Clarification" (Doc. No. 159 [Clarification]). Plaintiff seeks an order compelling Defendants Gray, Tiona, and Corrections Corporation of America to answer interrogatories. Plaintiff argues that he propounded interrogatories to these defendants on December 2, 2010 and, pursuant to Federal Rules of Civil Procedure 26 and 33, Defendants had thirty days to respond. (Compel at 2-3.) Plaintiff filed his motion to compel on January 31, 2011, claiming that he had not yet received Defendants' responses. (*Id.* at 2.)

Defendants Tiona, Brill, Gray and Corrections Corporation of America seek clarification regarding their deadline to respond to Plaintiff's requests for discovery. Defendants note that, on

January 20, 2011, the court issued a Minute Order allowing Plaintiff to propound twenty-five interrogatories to each Defendant. (*See* Doc. No. 145.) Defendants believed that they would have thirty days from the date of the Minute Order to respond. (Clarification at 3.)

Defendants' "Motion for Clarification" (Doc. No. 159) is **GRANTED**. Defendants are correct that the court indicated that discovery responses from Defendants would be due thirty days from the date of the Minute Order, or February 19, 2011. Plaintiff's "Motion to Compel" (Doc. No. 155) is **DENIED** as premature.

Defendants also seek clarification with regard to Plaintiff's Requests for Documents and Requests for Admissions. They indicate that they have received the following discovery requests from Plaintiff:

1. Plaintiff's First Request for Production of Documents from Defendant Corrections Corporation of America containing 25 requests for documents,
2. Plaintiff's First Request for Production of Documents from Gray containing 25 requests for documents,
3. Plaintiff's First Request for Production of Documents from Defendant Tiona containing 25 requests for documents,
4. Plaintiff's First Request for Admissions from Defendant Corrections Corporation of America containing 25 requests for admissions,
5. Plaintiff's First Request for Admissions from Defendant Gray containing 25 requests for admissions, and

6. Plaintiff's First Request for Admissions from Defendant Tiona containing 25 requests for admissions.

Defendants note that the court's January 20, 2011 Minute Order limited Plaintiff to a total of twenty-five Requests for Documents and twenty-five Requests for Admissions. (See Doc. No. 145.) Defendants seek clarification regarding which twenty-five Requests for Documents and which twenty-five Requests for Admissions Plaintiff would like answered.

It is therefore ORDERED:

On or before February 18, 2011, Plaintiff shall clarify which of his outstanding Requests for Documents and Requests for Admissions he wishes to maintain in light of the court's order limiting him to a total of twenty-five Requests for Documents and twenty-five Requests for Admissions for all Defendants collectively. Plaintiff may do this by advising Defendants in writing which of the previously submitted requests he will maintain, or he may submit a new set of Requests for Documents and a new set of Requests for Admissions, each limited to twenty-five requests, including subparts.

If Plaintiff does not designate discovery pursuant to this Order, all previously submitted Requests for Documents and Request for Admissions will be deemed abandoned and no longer of any force or validity.

If Plaintiff appropriately designates discovery in accordance with this Order, Defendants shall respond to said discovery on or before March 22, 2011.

Dated this 8th day of February, 2011.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge