

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-02554-RM-MEH

RONALD M. COX,

Plaintiff,

v.

ZAVISLAN, (DRDC) Warden (CDOC), and
REAUX (DRDC) Captain (CDOC),

Defendants.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on January 17, 2014.

Before the Court is Plaintiff's second renewed Motion to Compel [filed January 16, 2014; docket #142]. The Court denied without prejudice Plaintiff's original motion to compel for Plaintiff's failure to attach a copy of the opponent's written response to the discovery request, which informs the Court of the request, response and any objections made. With the first renewed motion, the Plaintiff complied by filing a copy of the Defendants' response to the discovery request, which objects to producing x-ray films directly to the incarcerated Plaintiff pursuant to a prison regulation; however, Defendants inform the Plaintiff that should he "wish to have the X-rays [] sent to someone outside the facility, he should make that request stating the approximate dates on which the X-rays were taken." *See Defendants' Responses to Plaintiff's First Request for Production of Documents*, docket #138-1 at 2. In the order denying the first renewed motion, the Court noted that Plaintiff's original motion to compel requested an order for the Defendants "to mail the x-ray film to the following address, Ronald Streeter, Re/To: Mr. Cox, 732 Troy Ct, Aurora, Colo, 80012." Motion to Compel Discovery, docket #135 at 2. Accordingly, it appeared that Plaintiff desires to comply with the administrative regulation cited in Defendants' discovery response. However, pursuant to Fed. R. Civ. P. 37(a)(1), Plaintiff failed to demonstrate that he ever made such request to the Defendants or conferred, or attempted to confer, with Defendants in an effort to obtain the x-rays by request for mailing to Mr. Streeter without court action.

In this second renewed motion, the Plaintiff merely attaches a "mail log" demonstrating that his original request for production of documents was mailed on May 20, 2013. However, the Court does not question that Plaintiff served his original discovery requests upon the Defendants in May 2013. Rather, the Court finds that the Plaintiff has not demonstrated he requested from the Defendants through discovery that the x-rays be sent to someone other than himself – here, presumably, Mr. Streeter. Until the Plaintiff can demonstrate the Defendants have denied Plaintiff's discovery request for x-rays requested in compliance with the prison regulation (i.e., producing

copies of the x-rays to someone other than the Plaintiff), the Court has no basis upon which to compel any action. Accordingly, the motion is **denied**.