

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No 13-cv-01574-RBJ-BNB

NATHANIEL JAMES HARVEY, III,

Plaintiff,

v.

CATHERINE SEGURA, in her official and individual capacity,

Defendant.

ORDER

Before me is the plaintiff's **Motion for an Order Compelling Discovery** [Doc. #111, filed 11/28/2014] (the "Motion"). The Motion is DENIED.

The plaintiff is incarcerated by the Colorado Department of Corrections. He filed his Second Amended Complaint on August 15, 2013 [Doc. #22] (the "Complaint"). Although the Complaint initially asserted seven claims for relief, all claims have been dismissed except for one claim against defendant Segura for violating the plaintiff's First Amendment rights by confiscating his kufi (a religious head covering) [Docs. ## 31 and 106]. On June 13, 2014, I entered a Scheduling Order [Doc. #87] which limited each side to 10 interrogatories, 10 requests for production of documents, and 10 requests for admissions, all including discrete subparts.

The plaintiff asserts that on July 29, 2014, he served on the defendant his first request for production of documents, and the defendant did not respond to that request. *Document # 112*,

pp. 1-2.¹ He further asserts that he served a second request for production of documents on November 5, 2014, which the defendant failed to fully answer. *Id.* at p. 2; *Motion*, pp. 2-3. The plaintiff argues that the defendant's failure to timely respond to his requests constitutes a waiver of any objections to the requests. *Document # 112*, pp. 2-3. He seeks \$5,000.00 in sanctions and an order compelling the defendant to fully answer the requests served on November 5, 2014. *Motion*, pp. 3-4.

The record reveals the following:

1. On July 23, 2014, the plaintiff served on the defendant his initial request for production of documents (the "First Request for Production of Documents"). *Defendant's Response to Plaintiff's Motion for an Order Compelling Discovery* [Doc. #125] (the "Response"), Ex. D. The plaintiff made 10 requests, including requests for his complete prison records, his complete medical records, and "complete records of background and work history of defendant Catherine Segura." *Id.*
2. On July 30, 2011, the plaintiff served on the defendant a request for production of documents that is identical to the First Request for Production of Documents. *Id.* at Ex. F.
3. The defendant served her response to the First Request for Production of Documents on August 21, 2014. *Id.* at Ex. E. The defendant supplemented one of her responses on November 10, 2014. *Id.* at Ex. G.
4. On July 29, 2014, the plaintiff served on the defendant a document entitled "Request for Inspection." *Document #113*, Ex. 1. The Request for Inspection contained 10 requests for

¹The plaintiff filed the Motion [Doc. #111]; a brief in support of the Motion [Doc. #112]; and a declaration and exhibits in support of the Motion [Doc. #113].

“any and all information” regarding complaints, investigations, and “reprimands” involving defendant Segura. Id.

5. On August 27, 2014, the defendant objected to the Request for Inspection as an improper discovery request and as not relevant or reasonably calculated to lead to the discovery of admissible evidence. *Response*, Ex. L.

On November 5, the plaintiff served on the defendant a document titled “Motion for Discovery - Plaintiff’s Second Request for Production.” Id. at Ex. A; Doc. #113, Ex. 2. That document is largely unintelligible. However, the plaintiff appears to be lodging an objection to the defendant’s responses to his Request for Inspection.

My review of the record reveals that the plaintiff served his 10 requests for production of documents on July 23, 2014, and the defendant responded to the requests August 21, 2014. The plaintiff’s Request for Inspection is an improper attempt to serve additional requests for production. I will not compel the defendant to respond to any further requests for production of documents, nor will I impose sanctions on the defendant.

IT IS ORDERED that the Motion [Doc. #111] is DENIED.

Dated January 6, 2015.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge