

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

LIONEL BEARD,

Plaintiff,

v.

**ASST MANAGER HUMPHRIES, FRED
FALMIER, and USA**

Defendants.

Case No. 3:16-cv-1209-JPG-DGW

ORDER

WILKERSON, Magistrate Judge

Pending before the Court is a Motion to Compel filed by Defendants Falmier, Humphries and USA (Doc. 49). For the reasons set forth below, the Motion to Compel is **GRANTED**.

FACTUAL BACKGROUND

Plaintiff Lionel Beard is an inmate who is currently incarcerated at the Federal Correctional Institution in Greenville, Illinois. Beard alleges that on August 11, 2015 he was verbally and physically assaulted by UNICOR factory supervisor Fred Falmier while at the United States Penitentiary in Marion, Illinois (Doc. 12-1). An assistant manager, Defendant Humphries, was present during the incident but did not intervene or otherwise attempt to stop the assault (Doc. 12-1, pp. 3-4). When Beard filed a complaint, he was transferred to USP-Marion's Special Housing Unit (SHU), where he remained for at least five months while the matter was investigated (Doc. 12-1, p. 4). Before he was ever interviewed, Plaintiff was transferred to FCI-Greenville (Doc. 12-1, p. 4). Beard filed the pending action alleging negligence and/or deliberate indifference of these federal officials under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346, 2671-80 (Doc. 12-1, p. 7).

The Court conducted a threshold review of Beard's Amended Complaint, and he was allowed to proceed on the following claims:

Count 1 - Falmier exhibited deliberate indifference toward Plaintiff, in violation of the Eighth Amendment and under *Bivens*, when he/she verbally and physically assaulted Plaintiff on August 11, 2015.

Count 2 - Humphries exhibited deliberate indifference toward Plaintiff, in violation of the Eighth Amendment and under *Bivens*, when he/she failed to intervene and stop the assault or assist Plaintiff in filing a complaint on August 11, 2015.

Count 3 - The United States is liable under the FTCA for Falmier's assault of Plaintiff and Humphries' failure to intervene and stop the assault on August 11, 2015.

(Doc. 15)

On May 1, 2018 Defendants filed the pending Motion to Compel alleging Beard had failed to answer written discovery requests (Doc. 49, ¶1). Specifically, interrogatories and requests for production of documents filed individually by Defendants Falmier and Humphries (Doc. 49-2).

ANALYSIS

Federal Rules of Civil Procedure 33(b), 34(b)(2) and 36(a)(4) require a party to answer or object to interrogatories, requests for production of documents and requests for admissions within thirty days. On February 12, 2018 Defendants sent their interrogatories and requests for production of documents to Beard through the United States Mail. Assuming three days for delivery, Beard was required to respond to the discovery requests by March 19, 2018. He failed to do so.

In his response, Beard argues that he has complied with the discovery order by filing his initial disclosures in a timely manner (Doc. 52, p. 1). Nowhere in his response does Beard address the interrogatories and requests for production of documents propounded by Defendants. Thus, it appears to the Court that Beard does not understand the role of interrogatories and requests for production of documents in the discovery process. The Court directs Mr. Beard's attention to

Section II (Discovery) of the Scheduling Order, which clearly states parties may submit up to 15 interrogatories, 15 requests for production of documents, and ten requests for admissions (Doc. 43, p. 3). Because the discovery sent to Beard by Defendants was authorized by the scheduling and discovery order, Beard was obligated to respond.

CONCLUSION

For the foregoing reasons, Defendants' Motion to Compel is **GRANTED**. Beard is **ORDERED** to answer Defendants' interrogatories and requests for production of documents (Doc. 49-2) and mail his responses to Defendants no later than **June 29, 2018**. Beard is **WARNED** that failure to comply with this Court order may result in a recommendation that his suit be dismissed. The Clerk of Court is **DIRECTED** to send Plaintiff a copy of Doc. 49-2 (relevant interrogatories and requests for production of documents) along with this order.

SO ORDERED.

DATED: June 4, 2018



DONALD G. WILKERSON
United States Magistrate Judge