

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
BOWLING GREEN DIVISION  
CIVIL ACTION NO. 1:20-CV-00131-GNS-HBB**

**WILLIE WILSON MILLER**

**PLAINTIFF**

**V.**

**CHRISTOPHER CLARK, et al**

**DEFENDANTS**

**MEMORANDUM OPINION  
AND ORDER**

Before the Court are three motions filed by Plaintiff Willie Wilson Miller. The first motion seeks issuance of a subpoena to the Records Custodian for TriStar Greenview Medical Center for production of Miller's medical records from June 14, 2020 to September 21, 2021 (DN 45). Next, Miller seeks issuance of subpoenas to a Pilot Gas and Food Market and a Wendy's Restaurant for exterior security camera records on June 14, 2020 (DN 47). The third motion is captioned "Motion to Appeal and Object to Such Findings and Recommendations" (DN 44) While the motion seeks an extension of time to file objections to the Findings of Fact, Conclusions of Law, and Recommendation (DN 43), a reading of the pleading reveals that Miller also seeks to re-open discovery in the case so that he might make, in essence, a substantive response in opposition to the underlying motion for summary judgment (DN 44).

The undersigned notes that the pretrial discovery deadline established in the scheduling order (DN 7) expired on May 14, 2021. Prior to the expiration of the deadline, Miller filed a request for the Court to issue a subpoena to Pilot and Wendy's for security videos (DN 15). In its Order, the Court explained to Miller that it was his responsibility to pursue issuance of subpoenas

under Federal Rule of Civil Procedure 45 (DN 26). The Clerk was directed to send Miller two blank subpoena forms. Miller subsequently returned the completed subpoenas for Pilot/Wendy's and TriStar Greenview Hospital for issuance (DN 27). On June 30, 2021, the Clerk executed the subpoenas and returned them to Miller for service (DN 28).

On September 2, 2021, without explanation, Miller filed in the record another subpoena directed to TriStar Greenview (DN 42). This subpoena appears to seek the same information as the one attached to his present motion (DN 45-1). Miller seems to indicate that he did not receive any documents in response to the earlier subpoena (DN 45 p. 3). This is not surprising, as Miller failed to include any information in his earlier subpoena as to what records he wished the custodian to produce (*See* DN 28).

The scheduling order afforded Miller approximately 90 days to undertake fact discovery (*See* DN 7). During that time, he actively pursued discovery, including requesting and receiving the same subpoenas he now seeks again, approximately five months after the expiration of the discovery deadline. Miller explains that he became ill on July 30, 2021, and tested positive for Covid-19 on August 2 (DN 44 pp. 2-3). As a result, he contends he has been weak and unable to pursue the litigation (*Id.*). Insofar as he presents this as a reason for obtaining more time to engage in discovery, it affords him no relief. According to his motion, he did not fall ill until over two months after the expiration of the discovery deadline (*Compare* DN 7 with DN 44). While Courts grant *pro se* litigants significant latitude in matters of pleadings, the same does not hold true regarding the obligation to observe procedural requirements. *See Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991). This includes an obligation to comply with "readily comprehended court deadlines." *May v. Pike Lake State Park*, 8 Fed. Appx. 507, 508 (6th Cir. 2001).

ORDER

For the reasons set forth above, **IT IS HEREBY ORDERED** that Miller's motions for issuance of subpoenas (DN 45, 47) are **DENIED as untimely**.

**IT IS FURTHER ORDERED** that Miller's motion for extension of time to file objections (DN 44) is **GRANTED IN PART and DENIED IN PART**. To the extent Miller seeks to have discovery in the case reopened, the motion is denied. Miller is granted additional time to file his objection to the undersigned's Findings of Fact, Conclusions of Law, and Recommendation (DN 43). His objection to the Report and Recommendation shall be due by **November 1, 2021**.

October 19, 2021

  
H. Brent Brennenstuhl  
United States Magistrate Judge

Copies: Counsel of Record  
Willie Wilson Miller, *pro se*