

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

**KEITH STEWART (#98926)**

**CIVIL ACTION**

**VERSUS**

**MAJOR FRANKLIN, ET AL.**

**NO. 07-0566-JJB-DLD**

**ORDER**

This matter comes before the Court on the plaintiff's Motion to Compel, rec.doc.no. 36, pursuant to which he seeks to compel the defendants to provide him with (1) copies of videotapes taken in the Education Building Lobby on July 14, 2006, (2) the disciplinary records of the two remaining defendants in this case, and (3) all administrative grievances filed against them. The defendants initially responded to the plaintiff's discovery by asserting that the referenced videotapes do not exist and by objecting to production of the disciplinary records and administrative grievances as not discoverable.

Considering that the plaintiff has not represented in his motion that he has, "in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action," as mandated by Rule 37(a)(1) of the Federal Rules of Civil Procedure, this motion shall be denied as premature.<sup>1</sup>

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<sup>1</sup> The Court further notes, without deciding, that the defendants appear to have adequately responded to the plaintiff's discovery. Initially, inasmuch as the defendants have represented that the requested videotapes do not exist, the Court will not order the defendants to produce same in the absence of more than conclusory assertions of their existence. Further, whereas the plaintiff asserts that the defendants' disciplinary records and administrative grievances are relevant for purposes of impeachment, he has failed to establish a foundation other than to state, in conclusory fashion, that these records will show that the defendants lied in discovery responses when they stated that they have no pertinent disciplinary records or administrative grievances filed against them. This bare-bones assertion does not appear to be sufficient to render these documents discoverable.

**IT IS ORDERED** that the plaintiff's Motion to Compel, rec.doc.no. 36, be and it is hereby **DENIED.**

Signed in Baton Rouge, Louisiana, on May 13, 2009.



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**MAGISTRATE JUDGE DOCIA L. DALBY**