

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BARRY W. FLETCHER SR.,)
)
 Plaintiff,)
)
 v.)
)
 ROBERT P. HOUSTON, Director,)
 NDCS, sued in their individual)
 capacities, FRANK X. HOPKINS,)
 Deputy Director, NDCS, sued in their)
 individual capacities, FRANCES)
 BRITTEN, Warden, Tecumseh State)
 Correctional Institution, sued in their)
 individual capacities, CATHIE)
 PETERS, mail/material Specialist,)
 Tecumseh State Correctional)
 Institution, sued in their individual)
 capacities, and LEAH)
 SWARTHOUT, Sergeant, Tecumseh)
 State Correctional Institution,)
)
 Defendants.)

4:12CV3179

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff Barry Fletcher’s “Motion Notice to Allow to Take Deposition Upon Written Questions.” (Filing No. [40](#).) Liberally construed, the “written questions” attached to Plaintiff’s Motion are interrogatories or requests for admission, as Plaintiff makes no mention of completing any of the technical requirements for taking a deposition by written questions set forth in Rule 31 of the Federal Rules of Civil Procedure. [Fed. R. Civ. P. 31\(a\)\(3\)](#) (requiring a party who wants to depose a person by written questions to serve a notice on all parties stating “the name or descriptive title and the address of the officer before whom the deposition will be taken”). According to the court’s progression ordered entered on March 25, 2013, all interrogatories, requests for admission, and requests for production or inspection had to have been served by April 22, 2013. Plaintiff did not

file his motion until May 21, 2013. However, the court notes that the deadline for depositions is June 3, 2013. Accordingly, on the court's own motion, the court will extend the discovery deadline in this matter in order to allow Defendants to respond to Plaintiff's discovery requests from May 21, 2013. (*See* Filing Nos. [39](#) and [40](#).)

IT IS THEREFORE ORDERED that:

1. Defendants shall respond to Plaintiff's May 21, 2013, request for production of documents and written questions (Filing Nos. [39](#) and [40](#)) by July 29, 2013.

2. Accordingly, Plaintiff is granted an extension of time until August 19, 2013, to file a response to Defendants' Motion for Summary Judgment.

3. Defendants' Objection (Filing No. [41](#)) to Plaintiff's requests for discovery is overruled.

DATED this 28th day of June, 2013.

BY THE COURT:

s/ Joseph F. Bataillon

United States District Judge

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