

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:08CV458-3-MU

DOUGLAS WADE MELTON,)
)
 Plaintiff,)
)
 v.)
)
 SHERRI SIMMONS et al.,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER comes before the Court on the Court’s own motion.

According to the record, on September 24, 2008, the Plaintiff filed a civil rights Complaint under 42 U.S.C. § 1983. On October 8, 2008, Plaintiff filed an Amended Complaint pursuant to this Court’s September 29, 2008 Order. Plaintiff alleges that he suffers from a deformity to his lower right extremity and was denied necessary orthopedic footwear causing him pain. Next, Plaintiff alleges that he has filled out requests to see the nurse or doctor which have either been denied or gone answered. Finally, Plaintiff contends that he has been placed in long term segregation and has been denied the right to use the telephone and to exercise.

The record shows that on November 13, 2008, Defendant filed an Answer to the Plaintiff’s Complaint. By their Answer, Defendants deny the material allegations of the Plaintiff’s Complaint and asserts certain affirmative defenses, including the defense of qualified immunity and failure to state a claim for relief. The record also shows that on December 9, 2008, Plaintiff filed an amended Motion to Produce Documents to which the Defendants have not filed

a response.

Accordingly, by the instant Order, the Court advises the parties that should they choose to file any dispositive motions, particularly motions for summary judgment, they must do so within forty-five (45) days of the date of this Order. In the event that the parties choose not to file any such motions, they should advise the Court of that fact within fourteen (14) days of the date of this Order. Furthermore, inasmuch as the plaintiff is appearing pro se, the Court specifically advises him that under the provisions of Rule 56(a) of the Federal Rules of Civil Procedure, he may “move with or without supporting affidavits for a summary judgment” in his favor upon all or any portion of his claims.

NOW, THEREFORE, IT IS ORDERED:

1. That the parties have forty-five (45) days from the date of this Order in which to file any dispositive motions which they may choose to file. However, in the event that either party chooses not to file a dispositive motion, such party shall advise the Court of that decision within fourteen (14) days of the date of this Order; and

2. That in the event any such dispositive motion is filed, the opposing party shall have thirty (30) days from the date of that party’s receipt of that motion in which to file a response with this Court.

3. Defendants shall file a response to Plaintiff’s Request (Doc. No. 22) within ten days of the date of this Order.

SO ORDERED.

Signed: January 28, 2009

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

