UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:14-cv-378-FDW

LEONARD A. GIVENS,)
Plaintiff,)
vs.	ORDER
DAVID AARON, et al.,)
Defendants.)
)

THIS MATTER is before the Court on the pro se Plaintiff's "Motion for Discovery," (Doc. No. 15), and on his "Motion for Default Judgment," (Doc. No. 16). In Plaintiff's underlying action, brought under 42 U.S.C. § 1983, Plaintiff contends that various correctional officers, who were members of a Prison Emergency Response Team at Lanesboro Correctional Institution, used excessive force against Plaintiff and sexually assaulted him during a search of his cell on December 12, 2013. In the motions, Plaintiff asserts that officials at Lanesboro Correctional Institution have not complied with this Court's order dated March 10, 2015, in which the Court found that Plaintiff is entitled to limited discovery of the names of the correctional officers who entered Plaintiff's cell to conduct the search on December 12, 2013. Specifically, the Court stated in its order:

Finally, as to John Does 1 through 5, Plaintiff states that he has been unable to determine the identity of these officers. Although the discovery period has not commenced, this Court authorizes Plaintiff to submit a limited discovery request to Defendants at this time, seeking the names of the PERT officers who participated in the search of Plaintiff on December 12, 2013. See FED. R. CIV. P. 26(d) (stating that a court may authorize discovery before the Rule 26(f) conference for the parties' and witnesses' convenience and in the interest of justice). If Plaintiff submits such limited discovery request to Lanesboro administrators, administrators shall respond to the request within 20 days of

receiving the request. Once Plaintiff receives the names of the officers who participated in the search, Plaintiff will then need to amend the Complaint to provide the actual names of these officers. Plaintiff will also need to prepare the summons forms for service on these five Defendants and submit the forms to the Court. Plaintiff can later, during the regular discovery period, submit discovery requests in order to identify the name of the John Doe Defendant who allegedly perpetuated the sexual assault.

IT IS HEREBY ORDERED that Plaintiff's "Motion for Discovery," (Doc. No. 15), and "Motion for Default Judgment," (Doc. No. 16), are **GRANTED** to the extent that Lanesboro Correctional Institution is ordered to comply with the Court's prior order regarding limited discovery. Officials shall comply with this Order within 20 days.

The Clerk of this Court is hereby instructed to mail this Order, and a copy of the Court's Order dated March 10, 2015, (Doc. No. 14), to Lanesboro Correctional Institution.

IT IS SO ORDERED.

Frank D. Whitney

Chief United States District Judge