

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
AT CINCINNATI  
CIVIL CASE NO: 11-277-SAS-JGW**

**KELVIN LOVETT**

**PLAINTIFF**

**V.**

**OFFICER STEVEN COLE, et al.**

**DEFENDANTS**

**MEMORANDUM ORDER**

Pending is pro se plaintiff's motion seeking a court order from three witnesses for an affidavit. Doc. 43. For the following reasons, the motion will be denied.

In its entirety, the body of plaintiff's motion is as follows:

Now comes Kelvin Lovett, plaintiff, pro-se, [Sic] Hereby ask the [court] to issue a court order for an affidavit from; Nurse J. Kluthe, Nurse D. Linneman, and c/o J. Williams as to the incident that involved the plaintiff on Jan. 14, 2011.

These 3 witnesses gave statements to the use of force some statements were contradictory [sic]. I'll need a more clear statement moving forward. And the statement[s] were unsigned.

I ask that the Affidavit[s] be signed and notarized, and be served on plaintiff within 30 days of service.

If you need a copy of statements or medical exam report to view statement already give [sic], the Defendant will simply [supply?] such (because they have a master file)[.]

Based upon the above the plaintiff believes good cause exist [sic] in this matter to order the Defendant to get these Affidavit[s] from staff who work at Lebanon.

Doc. 43.

The motion is not a model of clarity, but as I construe it plaintiff is asking the Court to order defendants to produce affidavits for plaintiff to use to further his §1983 claims. As defendants note in their response, none of the applicable Rules of Civil Procedure "require Defendants to submit unspecified affidavits to the opposing party from their own potential

witnesses.” Doc. 47, p.1. The Rules of Civil Procedure set forth the proper method for obtaining discovery,<sup>1</sup> and plaintiff’s pro se status does not mean that defendants are obligated to conduct discovery on plaintiff’s behalf. Moreover, S. D. Ohio Civ. R. 37.1 provides in relevant part that “[o]bjections, motions, applications, and requests relating to discovery shall not be filed in this Court, under any provision in Fed. R. Civ. P. 26 or 37 unless counsel have first exhausted among themselves all extrajudicial means for resolving the differences.” S. D. Ohio Civ. R. 37.2 provides in relevant part that any motion seeking discovery “shall be accompanied by a supporting memorandum and by a certification of counsel setting forth the extrajudicial means which have been attempted to resolve differences.” Plaintiff’s motion blatantly violates both local rules because it does not contain any indication that plaintiff attempted, much less exhausted, any extrajudicial means to obtain the discovery in question.

For the foregoing reasons, it is **ORDERED**:

Plaintiff’s motion seeking a court order from three witnesses for an affidavit [Doc. 43] is **denied**.

August 29<sup>th</sup>, 2011.

s/ J. Gregory Wehrman  
J. Gregory Wehrman  
United States Magistrate Judge

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<sup>1</sup>The Court cannot offer legal advice to plaintiff or explain in detail all of the various methods for properly obtaining discovery. But, depending on the type and scope of discovery he seeks, plaintiff should generally familiarize himself with the following Federal Rules of Civil Procedure: 26(scope of discovery); 30 (oral depositions); 31 (written depositions); 33 (interrogatories); 34 (production of documents); 36 (requests for admission); 45 (subpoenas).