

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

PATRICK BRIAN OWEN,

Plaintiff,

vs.

Case No. 08-CV-153-GKF-FHM

CITY OF TULSA, OKLAHOMA, MARK
A. WOLLMERSHAUSER, SR., JAMES
D. WEAKLEY, JERAD LINDSEY, IAN J.
SIMMONS, and TULSA COUNTY
SHERIFF'S OFFICE,

Defendant.

OPINION AND ORDER

Plaintiff's Motion to Compel Productions of Records of Non-Party [Dkt. 64] is before the undersigned United States Magistrate Judge. The motion is being considered on an expedited basis: an objection to the motion was filed by the non-party District Attorney Tim Harris from whom records are sought; the requested records were produced for *in camera* inspection; and a hearing on the matter was held on February 13, 2009.

Plaintiff's Motion to Compel Productions of Records of Non-Party [Dkt. 64] is GRANTED. The undersigned finds that the records sought are subject to discovery under 26(b)(1) because they are relevant to Plaintiff's claims and they are not protected by a privilege.

Plaintiff in this action brought under 42 U.S.C. § 1983 has subpoenaed the records of the Tulsa Country District attorney related to Case No. CM-2007-1505, a case in which Plaintiff was charged with misdemeanors and which was dismissed. Citing the Oklahoma Open Records Act, 51 Okla. Stat. §§ 24A.5, 24A.12, the District Attorney objects to

producing certain records claiming the records are privileged, confidential, and protected as work product.

The undersigned is persuaded by the legal analysis contained in *Sebolt v. City of Muskogee*, 2008 WL 2977865 (E.D. Okla.) which addresses and overrules the objections posed by the District Attorney.

Plaintiff's Motion to Compel Productions of Records of Non-Party [Dkt. 64] is GRANTED. Non-party District Attorney Time Harris is hereby directed to comply with the subpoena issued in this case.

SO ORDERED this 13th day of February, 2009.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE