

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

| | | |
|--|---|---------------------------|
| Sherald Anderson, #250152, |) | C/A No. 4:16-2462-JMC-TER |
| |) | |
| Plaintiff, |) | |
| |) | ORDER |
| vs. |) | |
| |) | |
| Warden Willie L. Eagleton (Official Capacity), |) | |
| Corporal V. Lovin (Vernon), |) | |
| Officer Doe Lucas, |) | |
| <i>In Their Individual Capacities,</i> |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

Plaintiff, who is proceeding *pro se*, brings this action pursuant to 42 U.S.C. §1983. Presently pending before the court are Plaintiff’s “Motion for an order compelling Discovery” and “Motion for Disposition.” (Docs. #25 and #27). Defendants filed a response to the Motion to Compel. (Doc. #28).

MOTION TO COMPEL

In his Motion to Compel, Plaintiff seeks an order compelling defendants to fully respond to his discovery requests.¹ The court’s scheduling order of August 18, 2016, ordered that “[d]iscovery shall be completed no later than October 18, 2016. All discovery requests shall be served in time for the responses thereto to be served by this date.” Defendants assert that Plaintiff served his First Request for Production of Documents dated September 23, 2016.

Plaintiff’s “First Request for Production of Documents” was dated September 23, 2016, with

¹ Plaintiff failed to attach a copy of the relevant portions of the discovery material with the motion in violation of Local Civil Rule 7, D.S.C.

a certificate of service dated September 23, 2016, and notarized on September 23, 2016.² (See doc. #28-1). Therefore, Plaintiff did not serve the discovery requests in time for the responses to be served by the October 18, 2016, deadline. Therefore, Plaintiff's motion to compel (Doc. #25) is denied.

MOTION FOR DISPOSITION

On December 2, 2016, Plaintiff filed a motion entitled "Motion for Disposition" (doc. #27) in which he alleges that the inability to use the law computer to do research for his case and not receiving legal supplies as requested, "caused me to miss my dates to file all my motions. I am asking the court d[ue] to these errors to consider my motion for interrogatories." It appears Plaintiff filed this motion in reply to Defendants' response to the Motion to Compel arguing the new discovery requests were untimely.³

This motion is denied. Plaintiff has not shown good cause under Rule 16 of the Federal Rules of Civil Procedure to grant his motion to file discovery requests outside of the court's scheduling order.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Plaintiff is given an additional fifteen days from the date of this order to file a response to the Defendants' Motion for Summary Judgment pursuant to the court's Roseboro Order of December 28, 2016, or his case may be dismissed pursuant to Rule 41 of the Federal Rules of Civil

² In the motion to compel, Plaintiff asserts that he submitted his written request for discovery "pursuant to rule 33 of the federal rules of civil procedure on October 10, 2016, but have not yet received the answers." (Doc. #25).

³ Defendants filed a motion for summary judgment on December 27, 2016.

Procedure. .

CONCLUSION

Based on the above reasoning, Plaintiff's Motion to Compel (doc. #25) and Plaintiff's Motion for Disposition (doc. #27) are DENIED.

IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

April 26, 2017
Florence, South Carolina