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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 HARVEY JERRELS,

9 Plaintiff,

No. C11-5712 BHS/KLS

v.

ORDER DENYING MOTION TO
COMPEL

10 DEPARTMENT OF CORRECTIONS,
11 BELINDA STEWART, PAT GLEBE,
12 CATHY M. BAUM, ARNP, and CHARLES
JONES,

13 Defendants.

14 Before the Court is Plaintiff's motion to compel. ECF No. 14. Defendants oppose the
15 motion on the grounds that Plaintiff failed to comply with FRCP 37(a) and because the discovery
16 Plaintiff seeks is addressed to the wrong defendant. ECF No. 15. Plaintiff replies that his
17 attempts to set up a telephone conference with defense counsel were ignored. ECF No. 17. The
18 Court anticipates that the parties will cooperate in good faith to resolve their discovery disputes
19 prior to seeking Court intervention. "A good faith effort to confer with a party or person not
20 making a disclosure or discovery requires a face-to-face meeting or a telephonic conference."
21 Local Rule CR 37(a)(1)(A). Because it appears there is some dispute as to whether Plaintiff has
22 made some attempt to confer with Defendants prior to filing his motion to compel, the motion
23 will not be denied on the grounds that it is premature.
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25 However, it is clear from Defendant Glebe's responses to Plaintiff's discovery that he
26 does not have possession of or personal access to the records that Plaintiff seeks. It is also clear

ORDER - 1

1 that the records Plaintiff seeks are in the possession of the Department of Corrections, which is
2 also named as a party in this lawsuit. Thus, Plaintiff need only correctly address his discovery to
3 the Department of Corrections so that the Department of Corrections can respond. Although
4 Plaintiff may believe that Defendant Glebe “has the legal right and ability to access said
5 documents”, there is no evidence before the Court that this is so. There is no evidence that
6 Defendant Glebe has responded to the discovery in bad faith and in fact, it appears that he has
7 cooperated with Plaintiff in alerting him to where the discovery may be found.
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9 Accordingly, it is **ORDERED**:

- 10 (1) Plaintiff’s motion to compel (ECF No. 14) is **DENIED**.
11 (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.
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13 **DATED** this 27th day of January, 2012.
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16 Karen L. Strombom
17 United States Magistrate Judge
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