

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BENTURA MARTINEZ,

Plaintiff,

v.

C.O. II P. JANUS,

Defendants.

ORDER

09-cv-607-wmc

Plaintiff is proceeding on civil rights claims alleging retaliation and a First Amendment violation. Before the court is plaintiff's motion to compel discovery as ordered by this court on August 2, 2010 and to compel responses to his second discovery requests.

On August 2, 2010, the court granted plaintiff's motion to compel defendant to respond to his first request for documents 5 and 6. Specifically, the court stated that plaintiff was entitled to information concerning any investigations of defendant for incidents similar to those alleged in the complaint as contained in defendant's personnel file and any informal discipline file maintained by the Human Resources Director. Also, the court asked the defendant's counsel to conduct another search to be sure that no written documentation exists concerning plaintiff's request 6. Defendant has complied with this court's August 3, 2010 order, stating that she had provided the information that existed. Plaintiff's motion to compel any further response to these requests will be denied.

In plaintiff's second discovery request 1, plaintiff requests records of all cell searches conducted by Janus in May 2009. Although defendant provided the cell search record for May 2009, defendant states he cannot tell from this log whether defendant executed any other cell search in the North Cell Hall in the month of May 2009. Defendant responds that she is willing to stipulate to the fact that she did not conduct any cell searches except the search of plaintiff's cell in May 2009.

Request 2 asks for the approved Hobby List. This request is vague but defendant has provided plaintiff the Green Bay Correctional Institution Hobbies Rules and Procedures Handbook,. In his motion to compel, plaintiff does not say why this response is inadequate, so there is nothing for the court to compel.

Request 3 asks that legal material plaintiff gave to Oscar McMillian be returned to him. This is not a proper discovery request. In any event, plaintiff's concerns about these materials were addressed in the court's April 19, 2010 order.

Plaintiff's requests 4 and 6 are duplicative of requests 5 and 6 in his first discovery request, which were discussed above. Request 5 asks for the amount of the State Department of Corrections Indemnification fund. This request is not likely to lead to the discovery of admissible evidence. Plaintiff's motion to compel further responses to his second set of discovery requests will be denied.

ORDER

IT IS ORDERED that plaintiff's motion to compel responses to discovery requests, dkt. 37, is DENIED.

Entered this 7th day of September, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge