

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

LARRY GEORGE,

Plaintiff,

v.

JUDY SMITH, *et al.*,

Defendants.

ORDER

05-C-403-C

On September 20, 2006, this court denied without prejudice plaintiff's second motion to compel discovery (dkt. 45) and indicated that plaintiff could refile his motion with better foundational support and clearer requests for relief. *See* dkt. 46. On October 27, 2006, plaintiff filed what he labeled an amended motion to compel discovery (dkt. 64) to which he attached foundational documents, apparently intending for the court to cross-reference these documents with the original motion. The state responded with a short letter asserting the adequacy of its discovery responses, amplifying only its answers regarding Dr. Tai Chan, DOC's optometrist. *See* dkt. 66. I am granting the amended motion in one small part and denying it in all other parts.

In the underlying motion to compel, plaintiff first objects to defendants' responses regarding "gang sign issues." Plaintiff's main point, discernible from several of his discovery requests, is that it is illogical, contradictory and therefore improper for defendants to withhold from plaintiff printed media that may contain gang related material when he is exposed to gang tattoos, signs, *etc.* every day in the institution. Defendants object to these queries as

argumentative, but refer to ¶¶ 69-99 of their proposed findings of fact (dkt. 33) in support of their motion for summary judgment, which explain in great detail DOC policy on gang symbols. Defendants further explain in their discovery response that it would be impractical to order inmates to cover all of their tattoos and DOC has no authority to order surgical removal of inmate tattoos (dkt. 31). Having reviewed these disclosures, I conclude that defendants have met their discovery obligations on gang signs. Plaintiff's efforts to discredit defendants' policies and acts do not entitle plaintiff to more discovery.

Next, plaintiff posed interrogatories to Tim Pierce about his decision not to allow plaintiff to possess three books with nude images or to possess personal copies of maps. There is no need for defendants to amplify their reasons for disallowing the books with nudes because the current answer is sufficient. As for the maps, defendants did not explain *why* inmates are allowed to view maps in the library but are not allowed to possess maps or copies of maps in their cells. If one were to speculate, a prohibition against inmate possession of maps of North, Central and South America might make sense for security reasons; but apparently the map ban is global. What policy objective undergirds the ban on possession of maps of geographically distant places? Perhaps it is too burdensome to require staff to review each inmate map to determine whether it shows Sonoyta, Mexico (worrisome) as opposed to Bayan-Olgii, Mongolia (not so worrisome). But we shouldn't have to speculate. Plaintiff is entitled to a one or two sentence policy explanation from defendants.

Third are plaintiff's interrogatories regarding Dr. Chan, an eye doctor. Plaintiff wants to know how many inmates Dr. Chan has been responsible for over the past five years while

working at DOC and the number of inmates to whom Dr. Chan has prescribed tinted glasses while working for DOC. Defendants objected to these as overly broad and unduly burdensome, explaining there is no easy way to obtain this information and its relevance is minimal at best in a “deliberate indifference” case in which the plaintiff has not disclosed an expert. Defendants are correct, and there is no need to amplify these answers. Defendants have supplemented their answer to the interrogatory regarding lawsuits and regulatory proceedings. This supplementation provides sufficient information to plaintiff on this query.

Finally, plaintiff wanted a more responsive answer to his interrogatory asking when Judy Smith first became aware of the dangers of second-hand smoke. Plaintiff’s stated need for a better answer is argumentative. *See* dkt. 64, Exh. 13 at 2. There is no need for defendants to supplement Smith’s answer.

ORDER

For the reasons stated above, it is ORDERED that plaintiff’s amended motion to compel discovery is GRANTED IN PART and DENIED IN PART in the manner and for the reasons stated above.

Entered this 9th day of January, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge