

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

PERCY EDWARD MOORE,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

ORDER

06-cv-697-bbc

This is an action brought under the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(B). On March 26, 2009, I denied plaintiff's motion for a continuance of defendant's motion for summary judgment pursuant to Fed. R. Civ. P. 56(f), finding that he was not entitled to the discovery he requested. Plaintiff had requested records of the behavioral modification techniques program. I found that these documents were related to a June 6, 2006 request for information under the Freedom of Information Act which was not a part of this action.

Now plaintiff has filed a document entitled, "Reconsideration of Discovery" that was docketed as a motion to compel discovery. In his pleading, he requests the court to order defendant to produce the records of behavioral modification techniques program. This

request must be denied because these records are not at issue in this case. Even if they were, plaintiff would not be allowed to circumvent the Freedom of Information Act's exemptions simply by filing a lawsuit under the Act and obtaining exempted materials through discovery. Accord Lindell v. McCaughtry, 115 Appx. 872, 876 (7th Cir. 2004) (inmate could not be allowed to "evade security restrictions by the simple expedient of filing suit and obtaining prohibited materials through discovery") (nonprecedential disposition).

ORDER

IT IS ORDERED that plaintiff's motion to compel discovery, dkt. #45, is DENIED

Entered this 1st day of May, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge