

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

DARRIN A. GRUENBERG,

Plaintiff,

v.

DUSTIN KINGSLAND and
STEVEN MUELLER,

Defendants.

ORDER

11-cv-574-slc

Plaintiff Darrin Gruenberg is proceeding in this case on his claim that defendants used excessive force against him in violation of his Eighth Amendment rights. Now defendants have filed a motion to quash plaintiff's pending discovery requests and bar further discovery, arguing that plaintiff's voluminous requests are unduly burdensome and serve no purpose other than to harass. Defendants attach 20 different sets of discovery requests by plaintiff, highlighting various frivolous requests such as attempts at defining the word "could" and repetitive nonsensical and harassing questions for admissions about knee strikes such as asking whether defendants would enjoy having knee strikes applied to them or their loved ones. Plaintiff responds to defendants' motion by stating that he will not submit any more discovery requests if defendants answer the several pending requests.

Plaintiff is not in a position to bargain with the defendants or the court: his dozens of requests for admission and other discovery requests are palpably excessive, argumentative, and for the most part pointless, because defendants would be within their rights to deny almost every one of them. The state claims to have responded to about 30 sets of discovery requests in this lawsuit. At this time, they do not need to respond to any more. Frankly, I'm surprised that the state did not lose its patience and seek relief from the court sooner. In the January 19, 2012 preliminary pretrial conference order, the court alerted plaintiff that he could not discovery evidence that was not relevant, and that Rule 26[c] protects all parties from discovery requests

that are annoying, oppressive, or too expensive or too much time to be worth it in this case, so that it was important to make careful discovery requests aimed at getting information and documents that plaintiff really need for this lawsuit. *See* dkt. 21 at 9-10. Plaintiff did not heed this warning. Instead, he bombarded defendants with angry, pointless discovery requests that plaintiff must have known would not result in the disclosure of any useful information.

Therefore, I am granting defendants' motion for protection in large part: all of plaintiff's pending discovery requests are stricken. For the remainder of this lawsuit, plaintiff may serve five more interrogatories (with no subparts) and three more requests for production of documents to defendants. Plaintiff shall not serve any more requests for admission. Plaintiff would be well-advised to make logical, necessary and tightly-targeted discovery requests because if defendants object to any of these requests and the court upholds that objection, then plaintiff has lost that discovery request against his count.

Plaintiff has also filed a motion for a court order allowing him to use funds from his release account to pay for expenses associated with prosecuting this lawsuit. The use of release account funds is governed by state law. *See* Wis. Admin. Code § DOC 309.466. According to § 309.466(2), "[p]rior to release, the department may authorize the disbursement of release account funds for purposes that will aid the inmate's reintegration into the community or that will reimburse the department for incarceration costs, including legal loans and restitution." The only exception is that release funds can be used to pay an initial partial filing fee under the 1996 Prison Litigation Reform Act. With that exception, this court does not have the authority to tell state officials whether and to what extent a prisoner should be able to withdraw money from his release account. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005) Because plaintiff cannot use his release account funds in the manner that he requests, his motion will be denied.

ORDER

It is ORDERED that:

- (1) Defendants' motion to quash plaintiff's pending discovery requests and to bar further discovery requests by plaintiff, dkt. 39, is GRANTED IN PART AND DENIED IN PART:
 - (a) All of plaintiff's pending discovery requests are stricken;
 - (b) For the remainder of this lawsuit, plaintiff may serve five more interrogatories (with no subparts) and three more requests for production of documents to defendants; and
 - [c] Plaintiff shall not serve any more requests for admission.
- (2) Plaintiff's motion for use of his release account funds, dkt. 43, is DENIED.

Entered this 30th day of July, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge