

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

GARY B. CAMPBELL,

Plaintiff,

v.

WOOD COUNTY SHERIFF DEPUTY
TODD JOHNSON,

Defendant.

MEMORANDUM

04-C-661-C

In an order entered in this case on November 10, 2004, I granted plaintiff Gary B. Campbell leave to proceed against defendant Todd Johnson on his claim that on March 31, 2004, Johnson applied excessive force to plaintiff. Defendant has answered plaintiff's complaint and a preliminary pretrial conference has been scheduled before the magistrate judge for December 29, 2004.

On December 9, 2004, plaintiff submitted a letter to the court requesting subpoena forms for his use in obtaining medical records from the Riverview Hospital and sheriff's department records pertaining to the incident forming the basis for his complaint in this court. As an initial matter, I note that plaintiff does not indicate that he mailed a copy of

his letter to Michael Modl, counsel for the defendant, as he is required to do pursuant to Fed. R. Civ. P. 5. Therefore, I am enclosing a copy of the letter to Mr. Modl with a copy of this memorandum. Plaintiff is reminded, however, that it is his obligation to serve defense counsel with a copy of every document he files with this court pertaining to this case and to show clearly on the court's copy that he has done so. The court will not consider any future submission from plaintiff that appears not to have been sent to opposing counsel as Rule 5 requires.

As for plaintiff's request for subpoena forms, I will direct the clerk of court to refrain from sending plaintiff such forms at this time, because plaintiff has suggested no reason why he cannot obtain the documents he wants without subpoenaing them. Plaintiff states that he wants to subpoena his medical records from the Riverview Hospital, but plaintiff has a right to obtain a copy of his own medical records any time he wants them without a subpoena. Perhaps plaintiff believes that if he subpoenas his medical records from the hospital he will not have to pay for them. That is not the case. With or without a subpoena, plaintiff is not entitled to free copies of documents that are maintained by his doctor or medical facilities or that are in the possession of the defendant. With respect to documents that may be in the possession of the Wood County Sheriff's Department relevant to defendant's alleged use of excessive force, plaintiff does not suggest any reason why he cannot utilize Fed. R. Civ. P. 34 to request production of those documents.

At the preliminary pretrial conference scheduled for December 29, 2004, the magistrate judge will discuss the discovery mechanisms available to the parties for obtaining evidence. At that time, plaintiff may ask about Rule 34 and pose any other questions he may still have on the preparing his case for trial or summary judgment.

Entered this 16th day of December, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge