

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

CINDY O'DONNELL, SANDRA
HAUTAMAKI, JOHN RAY,
PETER HUIBREGTSE, GERALD BERGE,
SGT. S. GRONDIN, C.O. D. ESSER,
KELLY TRUMM, C.O. JOHNSON,

Defendants.

ORDER

05-C-04-C

This case is scheduled for jury trial on February 27, 2006, on plaintiff's claims that his First Amendment rights have been violated by the decision of defendants Haines, Berge, Trumm, Huibregtse, Hautamaki and O'Donnell to enforce prison policies prohibiting prisoners from possessing magazines with torn covers and that his Eighth Amendment rights were violated when defendant Esser used excessive force against him. Now before the court is plaintiff's motion for reconsideration of the magistrate judge's December 21, 2005 order directing defendants to make available to plaintiff certain, but not all, items contained in defendant Esser's personnel file.

Under 28 U.S.C. 636(b)(1)(A), a district judge may reconsider a pretrial decision rendered by a magistrate judge “where it has been shown that the magistrate’s order is clearly erroneous or contrary to law.” Plaintiff asserts that defendants’ sole objection to his request for defendant Esser’s personnel file was a concern that plaintiff would obtain Esser’s personal information, such as his home address or social security number. Because these concerns could have been addressed by redacting all personal information before producing the file, plaintiff contends that the magistrate judge overreacted by reviewing the file in camera instead of ordering it redacted and disclosed to plaintiff in its entirety.

However, defendants objected to plaintiff’s discovery request not on the ground that plaintiff’s personal information might be revealed, but on the ground that the information contained in the file was “irrelevant and not likely to lead to the discovery of admissible evidence.” Dft.’s Resp. to Plt.’s Discovery Dispute, dkt. #43, at 11; Dft.’s Resp. to Plt.’s M. to Compel, dkt. #42, at 6. Appellate courts have “repeatedly approved” the use of in camera inspections of disputed materials because the procedure “allows the court to engage in a more delicate balance of competing interests than does a decision to decide a discovery issue based on the representation of the parties alone.” United States v. Phillips, 854 F.2d 273, 278 (7th Cir. 1988). The magistrate judge reviewed defendant Esser’s personnel file and ordered the production of all relevant documents. Plaintiff was entitled to no more. Because plaintiff has not shown that the magistrate judge’s order of December 21, 2005 is clearly

erroneous or contrary to law, his motion for reconsideration will be denied.

ORDER

IT IS ORDERED that plaintiff's motion for reconsideration of the magistrate judge's December 21, 2005 order is DENIED.

Entered this 11th day of January, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge