

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

THOMAS W. REIMANN,

Plaintiff,

v.

DAVID ROCK, *et al.*

Defendants.

ORDER

05-C-501-C

Before the court are plaintiff's two motions to compel discovery. *See* dkts. 36 and 37. The state does not oppose the second motion, regarding defendant Tierney, admitting that counsel inadvertently neglected to mail Tierney's interrogatory responses to plaintiff. Therefore, I will deny dkt. 37 as moot.

In dkt. 36, plaintiff challenges defendants' answers to interrogatories 1, 2, 11, 12 and 14, and to requests for production of documents (RFPs) 1, 4, 5, 7 and 8. Plaintiff has set out the interrogatories, RFPs and responses in his motion, *see* dkt. 36 at 1-2.

Interrogatory 1 asks defendant Tegels to identify all NLCI prisoners she has subjected to security transfers, along with the reasons motivating the transfers. The state objects on grounds of undue burden and relevance. In its response to the motion to compel, the state argues that the identity of other inmates who were transferred and the reasons for their transfer have "absolutely no bearing" on whether defendants transferred plaintiff in retaliation for having threatened to file a lawsuit regarding mail delivery. *See* dkt. 43 at 3.

Actually, there is at least some potential relevance to some of this information, depending on what it reveals. If there is a pool of inmates transferred for security reasons to compare and contrast with plaintiff, then it is theoretically possible that a factfinder could infer that plaintiff's circumstances were so dramatically different from the others in this group that there must be some other reason for his transfer. Based on what little this court knows about plaintiff, this is an unlikely outcome, but plaintiff is entitled to attempt to develop this information, at least in part.

The challenged transfer occurred in November, 2004. If the information is accessible, defendants must provide general information (not personal identifiers) for the group of inmates transferred from NLCI for security reasons during calendar year 2004. The information that would be relevant includes the number of inmates and a synopsis of what each of them did that caused the institution to transfer them. If such information is not retrievable, then the state must notify plaintiff and the court forthwith.

Interrogatory 2 asks the identify and current location of the inmate at SCI with whom plaintiff was "switched." The state argues that this is irrelevant to plaintiff's retaliation claim. I agree. I can conceive of no information that this inmate could provide that would help a factfinder resolve any facet of this lawsuit. The state need not provide further information in response to this request.

Interrogatories 11, 12 & 14 ask for information regarding plaintiff's hepatitis, but there is no hepatitis claim in the instant lawsuit. Plaintiff's Eighth Amendment claims

address soft restraints and reduction of other medications. Information about plaintiff's hepatitis, important though it may be to plaintiff, is not discoverable in this lawsuit.

RFP 1 requests copies of all Special Placement Need forms filed by other inmates against plaintiff. The state declined to provide them on the grounds of relevance. These SPNs have the potential to be relevant if NLCI used them in any fashion to determine that plaintiff needed to be transferred. Therefore, If NLCI reviewed and relied on any SPN when making its transfer decision, then the state must disclose the substance of all such forms to plaintiff. The state need not disclose actual forms, redacted or otherwise, but must inform plaintiff how many forms it considered, the details of the claimed special need regarding plaintiff, and NLCI's determination of the SPN insofar as it affected the transfer decision. No other information need be disclosed at this time regarding the SPNs.

RFPs 4, 5, 7 and 8 all request production of various DOC/BHS policies, protocols, procedures, *etc.* on specified topics (including Hepatitis C virus, which is not part of this lawsuit). The state responds that it can provide information to plaintiff if he is specific about which policies he wishes to review so that staff can find and retrieve the policies from the computer. This moots these claims.

ORDER

For the reasons and in the fashion stated above, plaintiff's two motions to compel discovery are GRANTED IN PART and DENIED IN PART.

Entered this 27th day of March, 2006.

BY THE COURT:

/s/

STEPHEN L. CROCKER

Magistrate Judge