

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

TITUS HENDERSON,

Plaintiff,

v.

MATTHEW FRANK; PETER HUIBREGTSE; BRIAN
KOOL; TRACEY GERBER; J. STARKY; RUSSELL
BAUSCH; ROBERT SHANNON; TODD OVERBO;
DICK VERHAGEN; and RICHARD
SCHNEITER,

Defendants.

ORDER

06-C-12-C

In this lawsuit, plaintiff Titus Henderson is proceeding on a number of claims, including one that defendant Kool denied him a promotion to level three at the Wisconsin Secure Program Facility on November 21, 2005, as retaliation for plaintiff's having written in a questionnaire that he would file lawsuits against staff who mistreat inmates. According to plaintiff, defendant Kool told a Dr. Beech that he did not like what petitioner had written in the questionnaire. Now plaintiff has submitted a letter that may not have been served on David Hoel, counsel for the defendants, as Fed. R. Civ. P. 5 requires. Therefore, I am sending a copy to counsel with a copy of this order, and reminding plaintiff that he must

indicate clearly that he has served opposing counsel with a copy of every submission he files with the court, including his cover letters.

In his letter, plaintiff asks for subpoena forms so that he can subpoena the Grant County Sheriff, “DAI” Steve Casperson and Dr. Beech “to turn over files & investigation reports concern[ing] sexual assault and retaliation in their possession.”

Parties to a lawsuit cannot utilize Fed. R. Civ. P. 34 to obtain documents from non-parties. Therefore, the clerk of court is directed to send plaintiff three blank subpoena forms for plaintiff's use in obtaining documents from the Grant County Sheriff, Steve Casperson and Dr. Beech, who are not parties to this lawsuit. Plaintiff should be aware that no person from whom the documents are sought need appear at the production and that he will need to pay the costs of copying the documents produced, even if he is proceeding in forma pauperis. If plaintiff does not demand a person's attendance, no witness and mileage fees need accompany the subpoena. Fed. R. Civ. P. 45(a)(1)(C), 45(b)(1) and 45(c)(2)(A). However, if plaintiff demands a person's attendance, he will need to tender to that person with the subpoena a check or money order in an amount sufficient to cover a daily witness fee at the rate of \$40 and round trip mileage at the rate of \$.44.5 per mile.

ORDER

IT IS ORDERED that the clerk of court furnish plaintiff with three blank subpoena

forms.

Entered this 17th day of July, 2006.

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