

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

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JAMES J. KAUFMAN,

Plaintiff,

v.

MATTHEW FRANK, *et al.*,

Defendants.

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ORDER

06-C-205-C

Before the court is plaintiff's January 29, 2007 motion to compel discovery (dkt 60) which this court received on February 1, 2007, the day after the court denied plaintiff's appeal of an earlier order on discovery, *see* dkt. 59. Defendants oppose plaintiff's most recent motion, *see* dkts. 88-90. For the reasons stated below, I am denying plaintiff's motion with one minor exception.

First, plaintiff renews his request that defendants provide him with the locations of remaining 53 inmates from his original list of 69 so that he can contact them to determine if they have information relevant to his lawsuit. Defendants oppose this request not only on discovery grounds, but also security grounds: they proffer evidence tending to show that plaintiff in the past has misused information about other inmates and their families in such a fashion as to be written up and to receive threats from the inmates.

As a discovery matter, the court sees no reason to deviate from its previous ruling. Sixteen inmates created a fair representative sample from the longer list. Apparently, none

of them had any useful information. In light of a 0% return rate, there is nothing to be gained by moving onto the next 16 inmates. It simply imposes an unnecessary burden on defendants. Next, as defendants observe in their response, many of the facts underlying plaintiff's claims are undisputed. For the purpose of determining liability, there is no pressing need to obtain corroborative evidence of plaintiff's factual claims. Finally, defendants' proffer on the security issue is sufficiently documented and alarming as to merit in its own right denial of plaintiff's motion to compel.

Second, plaintiff complains that he has not received sufficient followup on the list of titles of atheist books in the Jackson Correctional Institution chapel library. *See* dkt. 60, Exh. C. Defendants respond that although they do not deny that someone on their side prepared this list, they cannot establish who did it or what data they used. They suspect the list, which reports that there are 42 "atheist" books in the chapel library, was prepared by JCI's legal liaison, who currently is on vacation. Unable to provide more definite information at this time, defendants have provided plaintiff with a printout of *all* the books in the chapel library.

At this point, there is nothing more for the court to order defendants to do. I believe their averments because they have no reason not to provide the 42 book titles if they actually knew what they were; after all, defendants did provide the 12 "atheist" book titles from JCI's general library. All the court can do is require defendants immediately to contact JCI's legal liaison upon her return to work to determine if she actually made this list and if so, whether

she can provide the titles of the 42 books. So I am granting this small part of plaintiff's motion.

Third, plaintiff asks for more information about the withheld documents that two judges of this court have reviewed *in camera*. The court already has visited and revisited plaintiff's arguments. See December 7, 2006 order, dkt. 37, at 1-3; January 23, 2007 order, dkt. 57, at 2-4. Nothing in plaintiff's current motion persuades me that plaintiff is entitled to additional information or disclosure at this time.

Therefore, it is ORDERED that plaintiff's motion to compel discovery is GRANTED IN PART and DENIED IN PART in the manner and for the reasons stated above.

Entered this 16<sup>th</sup> day of February, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge