

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

WAR MARION,

Plaintiff,

v.

JANEL NICKEL, DYLAN RADTKE,
CHAD KELLER and B. NEUMAIER,

Defendants.

ORDER

09-cv-723-bbc

In this prisoner civil rights case, plaintiff War Marion alleges that defendants Chad Keller and Benjamin Neumaier disciplined him in retaliation for filing a lawsuit, in violation of his right of access to the courts. Trial in this case is scheduled for March 21, 2011. Now before the court is plaintiff's appeal of Magistrate Judge Stephen L. Crocker's order denying plaintiff's motion to compel the production of all documents pertaining to conduct report number 2085475. Dkt. #106.

Under 28 U.S.C. § 636(b)(1)(A), I may reconsider a pretrial ruling by the magistrate judge if the order is clearly erroneous or contrary to law. The magistrate judge denied plaintiff's motion to compel because plaintiff had not made a proper discovery request under

Rule 34 and because he had already been provided the documents he sought. In his appeal, plaintiff does not suggest that he does not have these documents, but rather continues to argue that his request to Nickel for these documents should not have been labeled an “open records” request. Regardless what arguments plaintiff makes, his request for these documents was not a proper discovery request under Rule 34 because it was not directed to defendants’ lawyer. See Fed. R. Civ. P. 5(b)(1). The magistrate Judge’s denial of plaintiff’s motion to compel was not clearly erroneous or contrary to law.

ORDER

IT IS ORDERED that plaintiff War Marion’s appeal of the Magistrate Judge’s order denying his motion to compel is DENIED.

Entered this 10th day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge