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

LARRY J. BROWN,

Plaintiff,

v.

BELINDA SCHRUBBE, PAUL SUMNICHT and CYNTHIA THORPE,

Defendants.

ORDER

10-cv-129-bbc

Plaintiff Larry J. Brown has been allowed to proceed on his claims that: defendants Belinda Schrubbe and Paul Sumnicht determined that he no longer needed his various comfort items or physical therapy; Sumnicht denied plaintiff further neurologist appointments and withheld his x-ray results; and defendant Thorpe affirmed dismissal of plaintiff's grievance concerning the removal of his extra mattress. Now before the court is plaintiff's motion to compel discovery, dkt. 68.

I. REQUESTS FOR PRODUCTION OF DOCUMENTS

First, plaintiff moves to compel the production of any disciplinary action or complaints in the personnel files of defendants Sumnicht, Schrubbe and Thorpe. Defendants respond that defendants have not been reprimanded or received disciplinary action because of patient care. This response is adequate probably is adequate: defendants also must check for and disclose any disciplinary reprimands or actions (and any pending, unresolved complaints) based in whole or in part on any sort of dishonesty. Nothing else is discoverable.

Second, Brown seeks information concerning the last five employers of Sumnicht, Schrubbe and Thorpe. Defendants object to this request that it is not reasonably calculated to

lead to the discovery of admissible evidence. The court agrees that producing this information would not lead to the discovery of admissible evidence.

Third, plaintiff moves to compel Thorpe to produce a copy of her job description and the application form she filled out. Defendants have produced the copy of Thorpe's job description but failed to respond to the request for a copy of the job application. Now defendants state that the application would not lead to the discovery of admissible evidence. The court agrees and the job application need not be produced *unless* it contains an admission by Thorpe of past job reprimands for any sort of dishonesty. I'm predicting that it does not.

Plaintiff requests that various photographs be taken of his cell and the objects in it. Defendants respond that these photographs cannot be produced because they do not exist. There is nothing in the discovery rules that require defendants to take the requested photographs fro plaintiff. Therefore, his motion to compel their production will be denied.

Pursuant to Fed. R. Civ. P. 34(a)(2), plaintiff could request to take photographs of his cell but he has not made such a request.

II. INTERROGATORIES

Plaintiff moves to compel defendants to answer interrogatories Nos. 4, 5, 6 and 11. In interrogatories 4 and 5 plaintiff asks defendant Sumnicht questions about removal of his low bunk, pillow and mattress. Defendant Sumnicht answered these interrogatories adequately, even though plaintiff does not like the answers. Plaintiff's motion to compel a further response will be denied. In interrogatory 6, plaintiff asks him whether a policy dictated a certain result. Sumnicht responds that it does not. This is an adequate response.

Plaintiff asks defendant Schrubbe in Interrogatory 11 to identify the person, place or thing who makes the determination that an inmate's condition is a "permanent condition." Defendants object that it is overly broad, ambiguous and requires speculation. The court disagrees. Defendants should be able to identify the person who makes the determination that an inmate has a permanent condition. Accordingly, the court will compel defendant to answer plaintiff's interrogatory number 11.

ORDER

IT IS ORDERED that plaintiff's motion to compel defendant Schrubbe to answer interrogatory number 11, dkt. 68, is GRANTED.

IT IS FURTHER ORDERED that with the specific exceptions noted above, in all other respects plaintiff's motion to compel is DENIED.

Entered this 24th day of June, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge