

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

JOSE R. PADILLA,

Plaintiff,

v.

DR. GARY MAIER, DR. DALIA SULIENE
and C.O. BITTLEMAN,

Defendants.

ORDER

11-cv-425-bbc

In this prisoner civil rights case, plaintiff Jose Padilla is proceeding on his claims that defendants Gary Maier and Dalia Suliene violated his rights under the Eighth Amendment and state law by failing to provide him proper health care for his mental and physical needs and that defendant C.O. Bittleman used excessive force against him. Now before the court is plaintiff's motion for the issuance a subpoena duces tecum.

Plaintiff's request will be denied for two reasons. First, it is this court's practice to request that the parties refrain from engaging in discovery until I have held a preliminary pretrial conference. This gives the defendants an opportunity to familiarize themselves with the case and allows me to explain to the parties how the discovery process works. The preliminary pretrial conference will be scheduled as soon as all of the defendants file an answer. Once the conference is held, plaintiff may start his discovery.

Second, the purpose of a subpoena duces tecum is to allow litigants to obtain needed information from someone who is not a party to the lawsuit, but plaintiff makes it clear in his motion that he is seeking information from the defendant Suliene. In that case, plaintiff does not need a subpoena from the court; he may serve his discovery requests on defendants' lawyer directly, following the Federal Rules of Civil Procedure, which should be available for plaintiff's

review in the prison library. Before plaintiff files any additional discovery requests, he should carefully review those rules, particularly Rule 26, which discusses the scope of discovery generally, and Rules 33, 34 and 36, which outline the procedure for preparing and serving interrogatories, document requests and requests for admission. If plaintiff has any questions about these rules after reviewing them, he may present those questions at the preliminary pretrial conference.

ORDER

IT IS ORDERED that plaintiff Jose Padilla's request for a subpoena duces tecum, dkt. 6, is DENIED.

Entered this 30th day of June, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge