

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BARRON R. BOWLING,)
)
 Plaintiff,)
)
 v.) Case No. 04-2320-CM
)
 TIMOTHY McCUE,)
 BRENDA FITZPATRICK, and)
 BRANDON COLLINS,)
)
 Defendants.)

ORDER

This case comes before the court on the motion of plaintiff for an order compelling defendants to produce documents and things responsive to written discovery requests (**doc. 30**). For essentially the reasons set forth in defendants' response (doc. 31), and in the absence of any reply brief by plaintiff, plaintiff's motion is denied without prejudice.

Plaintiff has served discovery requests on the defendants, who are each law enforcement officers. Many of the requests at issue seek disclosure of official Drug Enforcement Administration documents and information. Because the United States is not a party to this litigation, defendants argue that DEA documents must be obtained by subpoena to the agency, rather than through written discovery requests to the individual defendants. In addition, it appears that any disputes arising under such a subpoena would be properly brought in an administrative proceeding, rather than in this forum.

Plaintiff has not filed a reply brief and has not disputed defendants' argument that the current discovery requests and motion are not the appropriate vehicle for obtaining the discovery he seeks. Therefore, the court denies plaintiff's motion without prejudice. That is, if plaintiff is not ultimately successful in obtaining the requested discovery through the subpoena process, and if plaintiff can show that this court has jurisdiction to resolve discovery disputes regarding these documents, plaintiff may reassert his motion to compel.

IT IS SO ORDERED.

Dated this 19th day of July, 2005, at Kansas City, Kansas.

s/ James P. O'Hara

James P. O'Hara

U.S. Magistrate Judge