

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

RICHARD PHILLIP ANDERSON,)	
)	
Plaintiff,)	
)	
v.)	Case 07-3017-JAR
)	
DEBBIE BRATTON, et al.,)	
)	
Defendants.)	

ORDER

This matter comes before the court upon plaintiff's Motion for Discovery (Doc. 25) and defendants Debbie Bratton and Chauncey Biby's Motion for Extension of Time (Doc. 34).

Plaintiff's Motion for Discovery (Doc. 25)

Plaintiff asks the court "that he be allowed to proceed with discovery so to gather documentation and affidavit testimony from KDOC files and personnel."

The court denies plaintiff's motion as moot. Fed. R. Civ. P. 26(d) provides in part "Except in categories of proceedings exempted from initial disclosure under Rule 26(a)(1)(E), or when authorized under these rules or by order or agreement of the parties, a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)." The parties have not held their conference as required by Rule 26(f) and, as such, plaintiff's Motion for Discovery is premature and shall be denied without prejudice. However, the court has set the parties' Rule 26(f) conference for May 5, 2008.¹ As such, after that date plaintiff make seek discovery from defendants under the means established by the Federal Rules of Civil Procedure.

¹See Order Setting Telephone Scheduling Conference (Doc. 33).

Defendants' Motion for Extension of Time (Doc. 34).

Defendants seek to extend their response deadline to plaintiff's Motion for Summary Judgment (Doc. 31) by sixty (60) days, or until July 2, 2008. While plaintiff has not had the opportunity to respond to this motion, the court finds further briefing unnecessary and is prepared to rule. Defendants seek this extension due to the press of business, including an upcoming jury trial, and to allow adequate time to respond to plaintiff's Motion for Summary Judgment and file a cross-motion for Summary Judgment.

Here, the court finds good cause to grant defendants' motion. However, the court notes that the undersigned will set a dispositive motion deadline for the parties at their May 19, 2008 scheduling conference, so defendants may (but are not required) to file any cross-motion for summary judgment before that deadline. Additionally, for any subsequent motions for extension of time defendants shall consult with plaintiff prior to filing a formal motion with the court. Accordingly,

IT IS SO ORDERED that plaintiff's Motion for Discovery (Doc. 25) is denied without prejudice.

IT IS FURTHER ORDERED that defendants' Motion for Extension of Time (Doc. 34) is granted. Defendants have up to and including July 2, 2008 to respond to plaintiff's Motion for Summary Judgment (Doc. 31). At the parties' scheduling conference the court will set the parties' other pretrial deadlines.

IT IS SO ORDERED.

Dated this 23d day of April, 2008, at Topeka, Kansas.

s/ K. Gary Sebelius
K. Gary Sebelius

U.S. Magistrate Judge