

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

FILED

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2004 APR 21 AM 11:16

MIDDLE DISTRICT OF FLORIDA
FT. MYERS, FLORIDA

**DANNY E. BROWN, SYLVESTER
BUTLER, KENNETH CAUDILL, SAMMY
J. DOUSE, WILLIE ENGLISH, SIDNEY
EVERETT, KELVIN FRAZIER, MORRIS
J. GILBERT, JIJUAN T. HAGANS, TROY
D. HALL, BENJAMIN LAFLOWER,
CURT MASSIE, ANTONIO J. MC CLOUD,
LAMAR A. MIFFIN, MICHAEL L.
MONTGOMERY, KUNTA PORTER,
ISSAC SHARPE, SAMUEL STROTHER,
JEREMIAH THOMAS, EUGENE E.
ULRATH, GLENN WHEELER,
REGINALD WILLIAMS,**

Plaintiffs,

-vs-

Case No. 2:03-cv-526-FtM-29DNF

**SECRETARY, DEPARTMENT OF
CORRECTIONS, GERALD H. ABDUL-
WASI, JOSEPH THOMPSON, CHESTER
LAMBIN, JOSEPH PETROVSKY,
WENDELL WHITEHURST,**

Defendants.

_____ /

ORDER

This cause came on for consideration on the following motion(s) filed herein:

**MOTION: PLAINTIFFS' SECOND MOTION TO COMPEL
PRODUCTION OF DOCUMENTS AND THINGS FROM
DEFENDANTS (Doc. No. 80)**

FILED: March 2, 2004

THEREON it is ORDERED that the motion is GRANTED.

The Plaintiffs are requesting fixed camera digital recordings, VHS fixed camera recordings and VHS hand-held camera recordings of the incidents that occurred at 8 institutions evidencing the non-spontaneous chemical use of force recorded on December 6, 2003, through the date of the Defendants' response. The Court ruled on similar requests based on Plaintiffs' first Motion to Compel Production of Documents and Things from Defendants (Doc. 71). The Defendants object to producing these recordings for individuals other than the named Plaintiffs in this action. The Court permitted the production of these recordings in its other Order. "Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party . . . Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence." Fed.R.Civ.P.26(b)(1) The Court agrees with the Plaintiffs that these recordings are central to the issues raised in this action. Pursuant to Rule 34, Fed.R.Civ.P., the Defendants' obligation regarding these tapes is to make them available for inspection. The Defendants are not obligated to provide copies, however, if Plaintiffs request copies, the Plaintiffs may have copies made at their own expense.

The Defendants were also concerned that by allowing Plaintiffs and others access to these tapes, that the safety of the officers would be in jeopardy, and the security procedures at the institutions would be jeopardized. The Plaintiffs know the identities of the correction officers

involved and know the procedures that are involved in the non-spontaneous chemical use of force based on their participation in these incidents. This information should not be disseminated to or available to the public in general. The Court ordered the parties to fashion a confidentiality agreement which allows the appropriate individuals such as Plaintiffs', Plaintiffs' counsel, and experts to view the recordings and prohibits the Plaintiffs from allowing others to view the recordings. The Court also limited the Plaintiffs to making one copy of each of the recordings.

IT IS FURTHER ORDERED:

After the parties enter into a confidentiality agreement concerning the dissemination of the recordings and photographs the Defendants shall make the recordings available for Plaintiffs to view and make one copy of them thereafter.

DONE and ORDERED in Chambers in Ft. Myers, Florida this 21st day of April, 2004.



DOUGLAS N. FRAZIER
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
Counsel of Record
Unrepresented Parties

F I L E C O P Y

Date Printed: 04/21/2004

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