

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-CV-00135-MR

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|------------------------|---|--------------------------------|
| MATTHEW JAMES GRIFFIN, |) | |
| |) | |
| Plaintiff, |) | DEFENDANTS' RESPONSE TO |
| |) | ORDER [D.E. 77] |
| v. |) | |
| |) | |
| ERIC A. HOOKS, et al. |) | |
| |) | |
| Defendants. |) | |

NOW COME Defendants Eric A. Hooks, Eric T. Dye, and Jeffrey S. Clawson (hereinafter “Responding Defendants”), by and through undersigned counsel, and hereby respond to the Court’s order [D.E.77]:

1. Plaintiff, a state inmate proceeding pro se, filed his Complaint on March 20, 2019, alleging violations of his Eighth Amendment rights pursuant to 42 U.S.C § 1983. (D.E. 1).
2. On September 8, 2020, Plaintiff filed a motion to compel discovery. (D.E 73)
3. Prior to Plaintiff filing his Motion to Compel, undersigned counsel never received Plaintiff’s meet and confer letters and was certainly unaware that discovery a had been served and was due.
4. On September 22, 2020, Defendants filed a motion to extend the time to respond to Plaintiff’s motion to compel and to extend the case management deadlines. (D.E. 75)
5. On September 25, 2020 the court entered a text order extending the time to respond to Plaintiff’s motion to compel until September 29, 2020.

6. Unfortunately, somehow with the stress and difficulty of working from home during the Covid-19 crisis, this September 29, 2020 date was never entered into the scheduling calendar by undersigned counsel or the assigned support staff.
7. Undersigned counsel understands the Court has been extremely patient regarding the litigation of this matter.
8. Undersigned counsel is in the process of working with NCDPS to respond to Plaintiff's discovery request and provide appropriate responses. Undersigned counsel has received some of the information and documents requested by Plaintiff, however because of Covid-19 and the consequences surrounding the pandemic, it has been more difficult than usual to quickly obtain the necessary information.
9. Undersigned counsel has at all times acted in good-faith and attempted to move the litigation forward with the current restrictions imposed.
10. On March 10, 2020, North Carolina Governor Roy Cooper declared a state of emergency for the State of North Carolina in response to the COVID-19 virus, a highly contagious respiratory virus that may cause serious illness or death.
11. As a result of Covid-19, undersigned counsel and support staff are all working from home, managing extremely high levels of stress from extra work responsibilities, school closures, helping with online schooling as well as the difficulty of maintaining a large case load because of several attorneys and paralegals leaving the section.
12. Additionally, NCDPS staff are also dealing with Covid-19, working in difficult conditions and it has been more difficult than usual to obtain documents and responses from them regarding litigation matters.

13. Due to the COVID-19 pandemic and the consequent unique health, administrative, and custodial challenges that the state's prisons are facing, state prisons are presently requiring their correctional staff and medical staff to focus almost exclusively on the administration and management of direct and immediate correctional issues, not litigation. Thus, the COVID-19 pandemic has made all communications between the undersigned and Defendants' (as well as Defendants' relevant co-workers) impracticable during the current state of emergency. As a result, Defendants' (and certain relevant co-workers) are currently severely limited in their ability to actively and meaningfully assist in the preparation of a response in this matter during the state of emergency, including providing declarations in support of Defendants' response to Plaintiff's discovery requests.
14. Undersigned counsel is of the belief that the pro se Plaintiff-inmate will not be prejudiced by the enlargement of time although undersigned counsel is diligently attempting to finalize all discovery working with the limited resources available during the covid-19 pandemic.

This the 26th day of October, 2020.

JOSHUA H. STEIN
ATTORNEY GENERAL

/s/Bryan G. Nichols
Bryan G. Nichols
Assistant Attorney General
N.C. State Bar No. 42008
N.C. Department of Justice
Public Safety Section
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
Telephone: (919) 716-6568
Facsimile: (919) 716-6761

E-Mail: bnichols@ncdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on this day, I electronically filed the **Defendants' Response to Order [D.E.77]** with the Clerk of the Court using the CM/ECF system. I further certify that on October 27, 2020, I mailed a copy of the attached document by first class mail, postage pre-paid, to the following non-CM/ECF participant:

Matthew James Griffin
NMCD # 39704
Penitentiary of New Mexico
P.O. Box 1059
Santa Fe, NM 87504
Pro Se Plaintiff

This the 27th day of October, 2020.

/s/Bryan G. Nichols
Bryan G. Nichols