

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Londarr Ward v. Primitivo Rodriguez, et al.

6:22-CV-06497 FPG CDH · No. 6:22-CV-06497 FPG CDH · Decided March 4, 2026

SUMMARY

The court addresses three motions filed by incarcerated plaintiff Londarr Ward in an excessive-force action under 42 U.S.C. § 1983. The court denies without prejudice his motion for a subpoena or to compel production from the Erie County Sheriff’s Office and his motion for appointed counsel. The court construes his motion to produce as a Rule 34 request and orders defendants to respond within 30 days.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	Colleen D. Holland
JURISDICTION	United States District Court for the Western District of New York
DECIDED	March 4, 2026
DOCKET	6:22-CV-06497 FPG CDH
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, an incarcerated pro se litigant proceeding under 42 U.S.C. § 1983, moved for a subpoena or an order compelling discovery, for appointment of counsel, and for production of documents and electronically stored information. The magistrate judge denied the subpoena or compel motion and the appointment-of-counsel motion without prejudice, and ordered defendants to respond to the production request under Federal Rule of Civil Procedure 34.
STANDARD OF REVIEW	Discretionary review of a motion for appointment of counsel in a civil case; relevance and proportionality under Federal Rule of Civil Procedure 26(b)(1) for nonparty discovery; compliance with the procedural requirements of Federal Rule of Civil Procedure 45.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court decision
PARTIES	Londarr Ward v. Primitivo Rodriguez, Michael Walker, Jason Puleo, Edwin Burgos, David Hryn

TOPICS

discovery dispute civil procedure prisoners rights section 1983

PRACTICE AREAS

civil procedure civil rights prisoner litigation discovery

QUESTIONS PRESENTED

1. Whether the court could compel the Erie County Sheriff's Office, a nonparty, to respond to Ward's New York Freedom of Information Law requests.
2. Whether Ward had complied with the procedural requirements for issuance of a nonparty subpoena under Federal Rule of Civil Procedure 45 and shown that the requested discovery satisfied Rule 26(b)(1)'s relevance and proportionality requirements.
3. Whether Ward demonstrated that appointment of counsel was warranted under 28 U.S.C. § 1915(e), including the threshold requirement that his claims were likely to be of substance.
4. Whether Ward's motion should be construed as a request for production under Federal Rule of Civil Procedure 34 and, if so, whether defendants should be ordered to respond.

HOLDINGS

1. The federal court lacked jurisdiction to review Ward's FOIL claims and lacked a mechanism in this action to compel the nonparty Erie County Sheriff's Office or Erie County to respond to those requests.
2. Ward was not entitled to issuance of a subpoena or an order compelling the Erie County Sheriff's Office because he had not complied with Rule 45's procedural requirements and had not made a threshold showing that his broad requests satisfied Rule 26(b)(1)'s relevance and proportionality requirements.
3. Ward was not entitled to appointment of counsel at that stage because he failed to satisfy the threshold requirement of showing that his claims were likely to be of substance.
4. The court construed Ward's motion as a request for production of documents and electronically stored information under Rule 34 and ordered defendants to respond consistent with Rule 34(b)(2) within 30 days.

KEY QUOTATIONS

"Parties have no right to appointed counsel in civil cases, unlike in a criminal matter."

"Only after an initial finding that a claim is likely one of substance, will [a court] consider secondary factors[.]"

FACTUAL BACKGROUND

Londarr Ward, an inmate in New York State custody, alleges that defendants assaulted and restrained him at the Erie County Correctional Facility after a disagreement with his former attorney on September 27, 2022. He sought broad surveillance and body-camera footage, incident and investigation reports, photographs, and

medical records from the Erie County Sheriff's Office. He also sought appointment of counsel and production of photographs and footage identified in defendants' initial disclosures.

PROCEDURAL HISTORY

Ward alleges that defendants used excessive force against him at the Erie County Correctional Facility on September 27, 2022. The matter was referred to the magistrate judge for non-dispositive pretrial proceedings. After fact discovery commenced, Ward filed three motions concerning subpoena issuance or discovery, appointment of counsel, and production of photographs and video footage.

DISPOSITION

other

CASES CITED

- Jackson v. Wilcox, No. 1-23-CV-130-MAD-CFH, 2023 WL 2756489, at *5 (N.D.N.Y. Apr. 3, 2023), adopted, No. 1-23-CV-130-MAD-CFH, 2023 WL 4230351 (N.D.N.Y. June 28, 2023)
- Greenberg v. Board of Education of City of New York, 125 F.R.D. 361, 362 (E.D.N.Y. 1989)
- Gambino v. Payne, No. 12-CV-824A, 2015 WL 3505639, at *2 (W.D.N.Y. June 3, 2015)
- Gilead Sciences, Inc. v. Khaim, 755 F. Supp. 3d 285, 296 (E.D.N.Y. 2024)
- Swinton v. Serdula, No. 15-CV-47-RJA(F), 2025 WL 2783733, at *1 (W.D.N.Y. Sept. 30, 2025)
- Pietsch v. Police Officer Vito Marcantonio, No. 13-CV-4696(JS)(SIL), 2016 WL 1069656, at *4 (E.D.N.Y. Mar. 16, 2016)
- Silver v. Hauser, No. 21-CV-319-LJV-JJM, 2022 WL 4134240, at *9 (W.D.N.Y. Sept. 12, 2022)
- Verhow v. Hess, No. 13-CV-00012-JJM, 2014 WL 297342, at *1 (W.D.N.Y. Jan. 27, 2014)
- Foggie ex rel. Geronimo v. Commissioner of Social Security, 243 F. Supp. 2d 2, 4 (S.D.N.Y. 2003)
- Sears, Roebuck and Co. v. Charles W. Sears Real Estate, Inc., 865 F.2d 22, 23 (2d Cir. 1988)
- In re Martin-Trigona, 737 F.2d 1254, 1260 (2d Cir. 1984)
- Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989)
- Hendricks v. Coughlin, 114 F.3d 390, 392 (2d Cir. 1997)
- Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986)
- Carmona v. United States Bureau of Prisons, 243 F.3d 629, 632 (2d Cir. 2001)