

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH GILBERT : CIVIL ACTION
 :
 v. :
 :
 CITY OF PHILADELPHIA LAW :
 DEPARTMENT ENFORCEMENT DIVISION : NO. 96-7791

MEMORANDUM AND ORDER

Fullam, Sr. J. April , 1998

Plaintiff has filed a motion to enforce a subpoena which would require Tina J. Copeland to give a deposition. The proposed deponent is a former employee of the defendant. The subpoena was served on counsel for the defendant. The defendant opposes the present motion, on the ground that Ms. Copeland knows nothing about the plaintiff or this case, and can provide no useful information.

Plaintiff's motion will be denied, but for a different reason: Ms. Copeland is not a party to this action, and is not within the control of the defendant. No subpoena has ever been served upon Ms. Copeland. The defendant cannot be required to produce her for a deposition.

If plaintiff chooses to subpoena Ms. Copeland for a deposition, she is the only person who would have standing to object.

In an effort to avoid further time-wasting controversy,

I note the following: (1) the materials submitted by defense counsel go a long way toward establishing that Ms. Copeland has no information which would be useful or discoverable, but it does not provide total and conclusive proof of that fact. (2) if it should appear that plaintiff actually has no valid reason for deposing Ms. Copeland, but persists in doing so for improper reasons, sanctions may be justified.

An Order follows.

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ORDER

AND NOW, this day of April, 1998, IT IS ORDERED:

That's Plaintiff's Motion to Enforce a Subpoena Issued to Compel the Deposition of Tina J. Coleman, now known as Tina J. Copeland, is DENIED.

John P. Fullam, Sr. J.