

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JEFFREY D. LEISER,

Plaintiff,

v.

BELINDA SCHRUBBE, R.N., *et al.*,

Defendants.

ORDER

11-cv-254-slc

Plaintiff Jeffrey D. Leiser has filed a civil rights complaint under 42 U.S.C. § 1983, alleging that the defendants (Belinda Schrubbe, Charles Larson, Debbie Lemke, Paul Sumnicht, Mark Jensen, Sandy Jackson, Tonia Rozmarynoski, Cynthia Thorpe and Tammy Giese) violated his Eighth Amendment right to receive medical care while he was incarcerated at the Waupun Correctional Institution. The case is proceeding to trial on November 13, 2012.

Now pending before the court is Leiser's motion for a subpoena duces tecum. In particular, Leiser asks for a subpoena to procure original records consisting of medical file, including his original X-rays and MRI films. Leiser appears to have obtained a copy of his medical file during discovery. Leiser argues, however, that the original records are needed to ensure their authenticity at trial. Leiser volunteers to be custodian of this "physical evidence," under the "watchful eye" of a United States Marshal. Alternatively, Leiser asks the court to designate current HSU Manager Christen McCall as the proper custodian for purposes of producing his original medical records at trial.

It's hard to imagine that the defendants would resist Leiser using at trial accurate copies of his own medical records. I will require that the parties find a way to make it so, but I will not micromanage the process at this point. If this ends up being more difficult than I'm predicting, then we can discuss this at the final pretrial conference the morning of trial.

ORDER

It is ORDERED that:

- (1) Plaintiff Jeffrey D. Leiser's motion for a subpoena duces tecum, dkt. 106, is GRANTED, in part.
- (2) Defendants shall make plaintiff Jeffrey D. Leiser's medical records available in admissible form at trial through an appropriate records custodian, by stipulation, or by some other fair and efficient means.
- (3) Plaintiff Jeffrey D. Leiser's motion, dkt. # 106, is DENIED, in all other respects.

Entered this 30th day of October, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge