

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

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HARRISON FRANKLIN,

Plaintiff,

v.

ORDER

11-cv-736-wmc

GREGORY GRAMS, SGT. HARRIS,  
MS. THORPE, DR. SCHELLER,  
LORI ALSUM, BARBARA DELAP,  
DR. SULIENE and MARC CLEMENTS,

Defendants.

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Plaintiff Harrison Franklin filed this civil action under 42 U.S.C. § 1983, alleging that he had been denied medical and dental care while in custody of the Wisconsin Department of Corrections. On April 16, 2015, the court dismissed Franklin's complaint based on his repeated failures to comply with an order directing him to execute a standard medical release form authorizing disclosure of his medical records to defendants for the duration of this lawsuit. (Dkt. 86.) In that order, the court granted Franklin thirty days to file a motion to reopen, directing him to accompany the motion with a signed medical release form. Franklin did seek to reopen this case, and after he filed one improper medical release form on April 22, 2015, he filed a Second Motion to Reopen on May 6, 2015, still within the thirty day deadline imposed by the court. (Dkt. #93.) Franklin also accompanied his second motion with a signed medical release form, after redacting the portion of the form that indicates he signed it voluntarily.

In response, the court directed defendants to (1) advise the court as to validity of this redacted release, and (2) state whether they oppose re-opening this case. Understandably, defendants oppose re-opening this case due to Franklin's repeated failure to follow the court's orders, *see* Fed. R. Civ. P. 37(b)(2), but also advised that after presenting the signed release to the HIPAA Compliance Officer for the Department of Corrections, they were advised the release would be honored.

Although the court shares defendants' frustration with having to wait multiple months to receive a simple, signed medical release form, the court is now satisfied that Franklin has followed its order. Accordingly, the court finds that Franklin has not yet shown a level of defiance warranting the sanction defendants request. At the same time, Franklin should understand that as plaintiff, he has the burden of prosecuting his claim fairly, speedily and inexpensively. Any further failures to do so in good faith may well result in sanctions, up to and including dismissal of his claims with prejudice. Accordingly, Franklin's motion to reopen will be granted.

ORDER

IT IS ORDERED that plaintiff's Second Motion to Reopen (dkt. # 93) is GRANTED, and this matter is REOPENED. The clerk's office is DIRECTED to set this matter for a telephonic status conference to determine whether the pretrial conference order should be modified.

Entered this 4th day of June, 2015.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge