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

STEVEN D. STEWART,

Plaintiff,

v.

C.O. BARR, C.O. MCDANIELS, C.O. STOWELL, BURTON COX, JR., CINDY SAWINSKI and C.O. GOVIER (Male),

Defendants.

ORDER

05-C-293-C

Plaintiff Steven Stewart has filed a motion to compel discovery. *See* dkt. 32. Plaintiff complains that the six defendants declined to answer some of his interrogatories and failed to provide the documents he requested. Defendants disagree, claiming that they answered all relevant interrogatories and are under no obligation to provide plaintiff with free copies of his medical records. With one minor exception, defendants are correct and plaintiff is not entitled to relief.

As a preliminary matter, defendants observe that they responded in some fashion to all 145 of plaintiff's interrogatories even though they only had to respond to 25. Actually, this court allows a party to serve 25 interrogatories on each of his opponents. Plaintiff did not exceed that limit here. To the extent the language of the pretrial conference order is unclear on this point, I am amending it to avoid confusion in the future.

Defendants also argue that because plaintiff did not seek to meet and confer with them regarding his discovery dispute, the court should deny his motion on that basis pursuant to Rule 37(a). Although this court requires non-prisoner litigants to meet and confer on discovery disputes, it has abandoned this requirement in prisoner litigation because more often than not it turned out to be a frustrating waste of everybody's time. The preliminary pretrial conference order says as much:

> If the parties disagree about discovery requests, then this court would like them to try to work it out if they can do so quickly, but the court does not require this if it would be a waste of time. If either side thinks that the other side is not doing what it is supposed to do for discovery and they cannot work it out, then either the plaintiff or the defendant quickly should file a motion with the court.

Dkt. 26 at 10.

So, plaintiff did not violate any rules or procedures that would cause this court to deny his motion.

That said, I am denying plaintiff's motion on its merits, with one exception: Dr. Cox must answer Interrogatory 18, if he has any responsive information. Plaintiff asks "What is the amount of money due when taking care of a patient, is money the problem for the lack of treatment?" If Dr. Cox has even a ballpark notion of how much money plaintiff's surgery would have cost, then he must provide it. If Dr. Cox took into consideration the cost of providing immediate hemorrhoid surgery to plaintiff when he decided to deny that surgery

after another physician had recommended it, then plaintiff is entitled to know this. Any such weighing of costs and benefits could be relevant to a jury determination of indifference.

But that's it. Defendants have submitted the other disputed interrogatories and their responses to them. *See* dkt. 33 at 3-6. Going in order, I agree with defendants that they are not obliged to provide plaintiff with their ages, birth places, or current home addresses, nor must they disclose salary information.

The defendants need not provide plaintiff with "any and all documents relating to prison medical center staff training and education" because this information is irrelevant to plaintiff's claims against the named defendants.

Plaintiff is not entitled to additional answers to his questions to several defendants asking "Why [has] plaintiff not seen a doctor for rectal mucosa prolapse since 11-22-2004[?] If you made an appointment, please attach documents." The defendants to whom this question was posed responded that plaintiff was examined at the UW Hospital on September 13, 2005.

Plaintiff's interrogatory to defendant Sawinski "Do you understand the pain of rectal prolapse?" is simply an indignant rhetorical question that seeks no actual information relevant to this lawsuit.

Finally, defendants have no obligation to provide plaintiff with free copies of his medical records. As stated in the preliminary pretrial conference order, "If you are in an institution, you must use your own money or money from your legal loan account to pay for

copies. If you have reached your loan limit, or if you think you will reach it during this case, then you must plan accordingly." Dkt. 26 at 3. In extreme circumstances–and the key word is "extreme"–the court might find that the ends of justice require some photocopying of some documents for an indigent plaintiff who has an actual and immediate need for photocopies (in addition to access for review and note taking). Plaintiff has made no such showing in this case.

ORDER

Accordingly, IT IS ORDERED that plaintiff's motion to compel discovery is DENIED in all respects with the one exception noted above.

Entered this 30th day of November, 2005.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge