

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

VINCENT L. AMMONS,

Plaintiff,

v.

DR. BRUCE GERLINGER, *et al.*,

Defendants.

ORDER

06-C-020-C

Before the court is defendants' complaint that plaintiff has refused to sign a medical records release. *See* February 6, 2007 letter of AAG Sheehan, dkt. 42, at 2. Plaintiff has not responded directly to this complaint, but this court doesn't need to hear from plaintiff to invoke its usual policy in situations like these.

In orders entered March 31, 2006 and August 9, 2006, this court granted plaintiff leave to proceed against the defendants on two Eighth Amendment claims arising out of allegedly inadequate examination and treatment of plaintiff's wrist injury, bleeding rectum and protruding colon. Obviously, this entire case revolves around plaintiff's medical conditions and treatment (or lack thereof). Plaintiff's medical records would have highly relevant information on these topics. Therefore, plaintiff's medical records are discoverable by defendants, with an appropriate protective order limiting who could review the records and how they could use them. This is a routine procedure in cases like this one, and most plaintiffs, having chosen to put their medical conditions and treatment into dispute, agree to disclose their medical records.

All this being so, this court never will order a party to sign a medical records release form. A litigant always has the option of maintaining the privacy of his medical records above all else. However, once this court has determined that information contained in those records is directly relevant to material issues in the lawsuit, then a party's decision not to sign a release will have consequences commensurate with the importance of the records. In this case, plaintiff's medical records contain information that likely goes to the heart of plaintiff's claims against the defendants. Therefore, if plaintiff decides that he does not wish to disclose his medical records as part of discovery in this case, then it is likely that this court would dismiss plaintiff's lawsuit. The court would allow the parties to be heard before imposing any sanction.

So, it remains plaintiff's choice whether to release his medical records to defendants' attorney. Because expert witness disclosure deadlines are approaching, everyone needs to know soon what plaintiff wants to do. Therefore, plaintiff shall have until February 26, 2007 within which to provide to defendants' attorney a properly executed medical records release form. The court will deem a failure to meet this deadline as plaintiff's choice not to provide a records release.

Entered this 12th day of February, 2007.

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