

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

RONALD STEWART,

Plaintiff,

v.

KAREN TIMBERLAKE, JOHN EASTERDAY,
STEVE WATTERS and DEB MCCULLOUGH,

Defendants.

ORDER
10-cv-409-bbc

Plaintiff Ronald Stewart is a civilly-committed mental health patient held at the Sand Ridge Secure Treatment Center in Mauston, Wisconsin. Plaintiff is proceeding on his claims that defendants violated his First Amendment rights and his rights under Wisconsin's mental health act, Wis. Stat. § 51.61(1)(e) when they prohibited him from owning video games and video game systems. Defendants sent plaintiff a records release authorization form to sign; plaintiff has responded by moving for a protective order requiring defendants to maintain the confidentiality of his records by sealing any of his records they file with the court. *See* dkt. 17.

At plaintiff's request, defendants have tailored their authorization form for the release of these records to address plaintiff's concerns about the information from the records being used or re-disclosed. To address plaintiff's concerns regarding public disclosure of his treatment records, defendants already point out that their disclosure form requires them to file under seal any documents that specifically refer to Stewart's treatment records. *See* dkt. 23 at 5-6. Therefore, plaintiff's motion for an additional layer of protection from the court will be denied as unnecessary.

Although it does not appear that plaintiff has declined to sign a disclosure form, defendants fear this outcome. Let's be clear: this court never forces a party to release confidential medical/psychological records in any lawsuit, but in a case like this one, where plaintiff's claims require the defendants to review and employ in litigation some of plaintiff's confidential records, there will be consequences if plaintiff declines to sign a waiver. If plaintiff is unwilling to authorize the requested disclosures in this case, then his decision likely will result in dismissal of his lawsuit because the defendants cannot properly defend themselves without access to plaintiff's treatment records. Because plaintiff's records shall be maintained in confidence, the court does not anticipate that we will arrive at this crossroad.

ORDER

IT IS ORDERED that plaintiff's motion for a protective order, dkt. 17, is DENIED as unnecessary.

Entered this 8th day of November, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge