

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

---

JAMES R. SCHULTZ,

Plaintiff,

v.

ERIC JOHNSON, JOHN SEVERSON,  
KENNETH MILBECK and BRADLEY HOOVER,

Defendants.

---

ORDER

10-cv-581-bbc

Plaintiff James Schultz is proceeding on claims that (1) defendants Eric Johnson and John Severson used excessive force against him; and (2) defendants Kenneth Milbeck and Bradley Hoover punished him because of his involvement with Piety Global International, Inc. and because he possessed information critical of prison officials. Now plaintiff has filed a motion to compel defendants to provide both normal-sized and enlarged copies of two photographs showing injuries to plaintiff's body. I will deny this motion because plaintiff has already been given copies of these photographs and because defendants have no obligation to provide enlarged copies of the pictures.

Plaintiff also has filed a document titled "Objection to Defendants' Request for Generalized Medical Records and Motion for Specificity." Plaintiff's objection to the medical record authorization form submitted by defendants is that the form is too broad, as it covered all of plaintiff's medical records. Defendants responded by submitting a new form that limits the scope of information to the records created between March 1, 2005 and December 1, 2005. In his reply, plaintiff no longer objects to the scope of information requested by defendants. He does, however, object to the following portion of the disclosure form, which discusses re-disclosure of his medical information:

Redisclosure. I am aware that, if the recipients of my [protected health information] are not health care providers or persons that are subject to federal health privacy laws, information they receive may lose its protection under federal health privacy laws, and those persons may be permitted to re-disclose the information to the following without my prior approval: any employee or representative of the State of Wisconsin Department of Justice; any experts or other witnesses; any other parties involved in the Legal Matter and their attorneys; court reporters; and court personnel.

Plaintiff states that he objects “because there is no ending date that his health confidential information may be re-disclosed. [He] believes that once this court action is over with, so should re-disclosure.”

It would have been more efficient for plaintiff to voice this objection directly to defendants so that they could attempt to iron out their differences. In any event, plaintiff’s concern, while understandable, seems unfounded. The re-disclosure clause strongly implies that “redisclosure” of protected information would be limited to people who need access to it in conjunction with this lawsuit, such as witnesses DOJ attorneys and court staff. That certainly is the court’s view of what would be permissible here, so that any disclosure of protected information after this lawsuit concludes would be improper. Thus, plaintiff’s concern is not a basis for him to decline to sign the release form.

That said, this court never orders a party to sign a medical release form against his will. However, a party’s failure to release medical records has consequences commensurate with how severely this choice hampers his opponent’s ability to litigate, and could include dismissal of claims in the appropriate circumstance.

ORDER

IT IS ORDERED that plaintiff James Schultz's motion to compel, dkt. 53, is DENIED.

Entered this 15<sup>th</sup> day of April, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge