

1 NOT FOR PUBLICATION
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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 William Francis Roush,
9 Plaintiff,

No. CV-11-00286-PHX-SRB

ORDER

10 v.

11 Charles L. Ryan, et al.,
12 Defendants.
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15 Pending before the Court is a Report and Recommendation from the Magistrate
16 Judge recommending that Defendant's Motion for Sanctions be granted and that this case
17 be dismissed as a sanction for Plaintiff's failure to comply with the Court's Order filed
18 December 11, 2012. Plaintiff filed objections on May 23, 2013 and Defendant Hayes has
19 responded to those objections.

20 Plaintiff filed this civil rights action against various Defendants alleging damages
21 for personal injury. After refusing to voluntarily comply with a request for a release of
22 medical records Defendant filed a Motion to Compel which was granted on December
23 11, 2012. The Magistrate Judge's Order required Plaintiff to serve on Defendant by
24 December 18, 2012 "an original fully executed "Medical Authorization for Release of
25 Information and Documentation' in the form attached as Exhibit G to Defendant's
26 Motion (Doc. 163)." (Doc. 196, Order, Dec. 11, 2012 at 4). This Court overruled
27 Plaintiff's objection to that Order on January 7, 2013 and affirmed the Order compelling
28 Plaintiff to provide the medical records release. Defendant requested and obtained an

1 extension of the dispositive motion deadline based on Plaintiff's failure to comply with
2 the Order requiring the medical records release. In a January 25, 2013 Order the
3 Magistrate Judge granted the extension and set a second specific deadline for Plaintiff to
4 comply with the December Order for service of the medical records release. The new
5 deadline for Plaintiff's compliance was February 4, 2013. Plaintiff was given the option
6 to show cause why he could not comply with that deadline.

7 Plaintiff filed a response to the Order to Show Cause asserting various reasons
8 why he had not complied with the Court's Order but still did not serve the release. The
9 Court concluded that Plaintiff had failed to show good cause for his failure to comply
10 with the Court's Order and invited Defendant to file a Motion for Sanctions. As of the
11 date of this Order, Plaintiff still has not complied with the Court's Order by serving his
12 medical records release. After analyzing various alternatives for sanctions the Magistrate
13 Judge concluded that dismissal was the only appropriate sanction here and recommended
14 that to this Court.

15 Plaintiff's 12 page handwritten objections predominately objects to the exercise of
16 jurisdiction by the Magistrate Judge over non-dispositive proceedings in this case and the
17 assignment of this case to this Judge. Nowhere in the objections does Plaintiff explain
18 any reason why he has been unable to comply with the Order that he provide the medical
19 records release. The only thing that approaches an objection to the contents of the Report
20 and Recommendation is Plaintiff's continuing assertion that he should not be required to
21 provide a medical records release because the Court had the authority to by-pass Plaintiff
22 and order the Arizona Department of Corrections to release his medical records to
23 Defendant. The Magistrate Judge had previously explained his reasons for refusing to do
24 this; reasons with which this Court agrees.

25 IT IS ORDERED overruling Plaintiff's Objections to the Magistrate Judge's
26 Report and Recommendations.

27 IT IS FURTHER ORDERED adopting the Report and Recommendation of the
28 Magistrate Judge as the Order of this Court.

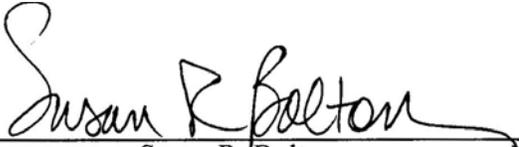
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IT IS FURTHER ORDERED granting Defendant's Motion for Sanctions. (Doc. 251)

IT IS FURTHER ORDERED that as a sanction for Plaintiff's failure to comply with the Court's Order filed December 11, 2012 that this case be dismissed.

IT IS FURTHER ORDERED directing the Clerk of Court to enter judgment accordingly.

Dated this 11th day of June, 2013.



Susan R. Bolton
United States District Judge