

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

LARRY WAYNE JONES
ADC #70147

PLAINTIFF

v.

No. 5:14-cv-108-DPM-JTK

OJIUGO IKO, Medical Doctor, Varner Supermax,
ADC; DEBORAH LOUISE YORK, Health Services
Administrator, Varner Unit, ADC; RANDY WATSON,
Warden, Varner Unit, ADC; GRANT HARRIS, Chief
Deputy Director, ADC; YOLANDA CLARK, Supervisor,
Food Services, Varner Unit, ADC; KAYE SKILLEN,
Administrator, Food Services, ADC; and DEBRA
GOLDMAN, Dietician, ADC

DEFENDANTS

ORDER

1. Jones appeals the denial of his motion to compel. *No* 78. On *de novo* review, the Court affirms in part and reverses in part. FED. R. CIV. P. 72(a). Jones's medical records from after he filed this complaint are irrelevant. But records from before Dr. Iko discontinued the vitamin supplement in early 2012 are crucial to the deliberate-indifference and malpractice claims against her. Dr. Iko says she stopped the supplement because Jones's medical records showed no need for it. Whether her conclusion was deliberately indifferent or malpractice depends on what was in those records.

Nonetheless, Jones doesn't need his entire prison medical record, which the ADC says dates back to the mid-70s. The Court therefore directs the ADC to provide Jones with a copy of his medical records from 1 January 2009 to 24 March 2014. The ADC must make this production by 15 December 2015. And the ADC need not re-produce records already given to Jones.

2. On *de novo* review, the Court adopts the recommendation, *No 80*, as modified. FED. R. CIV. P. 72(b)(3). The parties' objections, *No 81 & 86*, are overruled.

a. The Medical Defendants' motion for summary judgment, *No 39*, is granted in part and denied without prejudice in part.

The motion is granted as to Jones's constitutional claims against York. Those claims are dismissed with prejudice.

The motion is denied without prejudice as to Jones's malpractice claim against York and his claims against Iko; but York and Iko may renew after Jones gets the necessary records and the help of appointed counsel and an expert.

b. The ADC Defendants' motion for summary judgment, *No 42*, is granted. Jones's claims against Clark, Goldman, and Harris are dismissed

without prejudice for failure to exhaust. His claims against Skillen and Watson are dismissed with prejudice.

* * *

Jones's appeal, *No 78*, is sustained in part and rejected in part. His motion to compel, *No 45*, is granted as modified in part and denied in part. And the pending recommendation, *No 80*, is adopted as modified. The case is returned to Magistrate Judge Kearney. He will appoint counsel and set a deadline for any second motion for summary judgment.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

3 November 2015