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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENITA PALMER, et al.,) Case No.: 1:13-cv-01400 - AWI - JLT
)
Plaintiffs,) ORDER DENYING REQUEST FOR RELEASE OF
) MENTAL HEALTH RECORDS
v.)
) (Doc. 14)
SALVADOR VASQUEZ, et al.,)
)
Defendants.)
)

In this case, Plaintiffs’ decedent was killed by his cellmate, Anthony Taylor, while housed at the California Correctional Institution in Tehachapi, California. (Doc. 28 at 3, 4-5) Plaintiffs claim that the decedent should not have been housed with Taylor who was a convicted murderer and had known proclivities for possessing weapons and for injuring inmates and others. Id. at 4, 7. Likewise, they allege Defendants failed to provide adequate supervision of the decedent, due, in part, to prison overcrowding. Id. at 5.

Over the last few months, Plaintiffs have sought records of inmate Taylor from Defendants who, apparently, have provided the CDCR’s Central File on Taylor. (Doc. 39 at 2-11) Apparently, many documents contained in the file demonstrate that Taylor had been involved in numerous acts of violence and threats of violence against co-inmates and staff members. Id. The record demonstrates also that Taylor was found to meet the criteria for receipt of mental health services and was found to be in need of psychotropic medication. Id. at 3-5, 7-10.

Plaintiffs have also sought the mental health records for Taylor. (Doc. 36 at 1-2) Defendants

1 have refused to produce the documents—not because they object to them being produced—because
2 Taylor has not been given proper notice of the request for the records or any opportunity to object to
3 their production. Id.

4 On November 6, 2014, the Court held a mid-discovery status conference at which counsel
5 agreed that, “Plaintiff will serve a subpoena duces tecum for production of the mental health records
6 for inmate Taylor and will provide Mr. Taylor proper notice through a Notice to Consumer. The Court
7 will address any objections filed by Mr. Taylor, as needed. If there are no objections or they are
8 overruled, the records will be produced to the Court for an in camera review.” (Doc. 38) However,
9 the Court heard nothing further on the matter until January 20, 2015 when the parties filed a joint
10 statement, now before the Court. (Doc. 39)

11 In the joint statement, Plaintiffs recite the information set forth above related to Taylor’s
12 Central File and request the Court conduct an in camera review of Taylor’s mental health records.
13 (Doc. 39 at 11) Defendants agree that the records are discoverable but note production of the
14 documents violates HIPAA and state and federal evidence code sections related to the
15 psychotherapist-patient privilege. Id. Defendants have attempted to obtain Taylor’s consent for the
16 release of the records but he has not provided it. Id. Defendants assert that Plaintiffs should issue a
17 subpoena to the CDCR with a notice to consumer so Taylor can be apprised of the document request
18 and of his right to object. Id.

19 Notably, Plaintiffs fail to explain why the agreement made on November 6, 2014 (Doc. 38)
20 was not followed or how the Court could or should compel the production of the documents absent
21 affording due process to Taylor. He is entitled to notice and an opportunity to object. Though the
22 Court remains willing to conduct the in camera review discussed on November 6, 2015, the parties
23 have failed to provide any justification why this should occur before Taylor receives due process.

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Thus, Plaintiffs' request for the in camera review in the current context is **DENIED**.

IT IS SO ORDERED.

Dated: January 27, 2015

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE