

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER LIPSEY, JR.,

Plaintiff,

v.

DR. DEPOVIC, et al.,

Defendants.

Case No. 1:18-cv-00767-NONE-HBK

ORDER DENYING PLAINTIFF’S MOTION
SEEKING ADVISORY OPINION

(Doc. No. 48)

Pending before the Court is Plaintiff’s pleading titled “Equitable Prompt Review and Ruling” filed August 19, 2021. (Doc. No. 48). The pleading seeks “to have the court to decide the timeframe in which the defendants are entitled to plaintiffs [sic] medical records.” (*Id.* at 2 ¶¶ 22-26.). Liberally construed, Plaintiff appears to ask the Court to advise him as to the appropriate period for which his medical records are relevant and thus discoverable.

At the outset, the Court does not render advisory rulings. There is neither a pending discovery motion nor a motion for a protective order before the Court. The Court had set this matter for a status conference and intended to discuss any discovery issues or disputes with the parties at that hearing. Plaintiff, however, failed to attend. (*See* Doc. No. 47). Given Plaintiff’s *pro se* status and to further assist the parties in moving this case forward, the Court nonetheless

1 can elaborate on the law and the considerations it makes when weighing discovery disputes.
2 Under Federal Rule of Civil Procedure 26, “[p]arties may obtain discovery regarding any
3 nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs
4 of the case, considering the importance of the issues at stake in the action, the amount of
5 controversy, the parties’ relative access to relevant information, the parties’ resources, the
6 importance of the discovery in resolving the issues, and whether the burden and expense of the
7 proposed discovery outweighs the benefit.” Fed. R. Civ. P. 26(b)(1). The party seeking to compel
8 discovery bears the burden of establishing his request satisfies the relevancy requirements of Rule
9 26. *Bryant v. Ochoa*, No. 07-cv-200-JM (PCL), 2009 WL 1390794, at *1 (S.D. Cal. May 14,
10 2009).


11 Plaintiff’s complaint stems from the discontinuation of Plaintiff’s prescription medication
12 in August 2017. (*See generally* Doc. No. 12). Defendants apparently seek to discover Plaintiff’s
13 medical records from three years prior to the underlying incident through four years after. (Doc.
14 No. 48 at 2-3). Plaintiff’s operative complaint details how he was concerned that he would suffer
15 withdrawal symptoms if his psychotropic medications were discontinued as he had been of the
16 medications for “years” before the incident in questions and previously experienced withdrawals
17 “in the past.” (Doc. No. 12 at 3). Plaintiff also claims that due to the abrupt discontinuation of
18 his medication he suffered withdrawal and eventually ended up cutting himself leaving him with
19 permanent scars. (*Id.*). Finally, Plaintiff claims his medications “were cut off again in early
20 2018.” (*Id.* at 6). Plaintiff’s medical records proceeding the event by a “number of years” and for
21 some period after the event in question are thus clearly relevant because they are at issue in
22 Plaintiff’s complaint. Whether that relevancy extends to the seven-year period Defendants seek,
23 or whether it could be more narrowly tailored, would be the primary question before the Court
24 should Defendants move to compel Plaintiff’s medical records or Plaintiff file a motion for a
25 protective order. However, such a motion is not pending before this Court.

26 Accordingly, it is **ORDERED**:

27 Plaintiff’s filing for “equitable prompt review and ruling” (Doc. No. 48) construed as a
28 request for an advisory opinion is DENIED.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: August 30, 2021


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE