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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREW MOAK,
Plaintiff,
v.
SACRAMENTO COUNTY,
Defendant.

No. 2:15-cv-0640 MCE KJN P

ORDER

I. Introduction

Plaintiff is a state prisoner, proceeding without counsel. On June 13, 2016, plaintiff filed motions to quash subpoenas issued to the Valley State Prison Litigation Coordinator for plaintiff’s non-confidential prison central file, and to “Correctional Health Services,” for all of plaintiff’s medical records. (ECF Nos. 27, 28.) Defendant filed an opposition. As discussed more fully below, the court grants plaintiff’s motions.

II. Plaintiff’s Claims

In his pleading, plaintiff alleges that from April 2012 to September 2013, while he was a pretrial detainee housed in the Sacramento County Jail, defendant maintained a policy or custom of allowing a backflushing problem to exist within the plumbing system at the jail, and refused to provide cleaning supplies to sanitize the cell after waste water splashed out of the toilets.

1 III. Legal Standard

2 “Parties may obtain discovery regarding any nonprivileged matter that is relevant to any
3 party’s claim or defense Relevant information need not be admissible at the trial if the
4 discovery appears reasonably calculated to lead to the discovery of admissible evidence.” Fed. R.
5 Civ. P. 26(b)(1).

6 Rule 45 of the Federal Rules of Civil Procedure requires a court, on timely
7 motion, to “quash or modify a subpoena that . . . requires disclosure of privileged or other
8 protected matter, if no exception or waiver applies; or subjects a person to undue burden.” Fed. R.
9 Civ. P. 45(d)(3)(A)(iii), (iv). “The party who resists discovery has the burden to show that
10 discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its
11 objections.” Oakes v. Halvorsen Marine Ltd., 179 F.R.D. 281, 283 (C.D. Cal. 1998).

12 “Quashing subpoenas goes against courts general preference for a broad scope of
13 discovery, [but] limiting discovery is appropriate when the burden of providing the documents
14 outweighs the need for it.” Call of the Wild Movie, LLC v. Does 1-1, 062, 770 F.Supp.2d 332,
15 354-355 (D. D.C. 2011) (internal quotations and citation omitted). “When evaluating whether the
16 burden of subpoena compliance is undue, the court balances the burden imposed on the party
17 subject to the subpoena by the discovery request, the relevance of the information sought to the
18 claims or defenses at issue, the breadth of the discovery request, and the litigant’s need for the
19 information.” Id. (internal quotations omitted); see also Moon v. SCP Pool Corp., 232 F.R.D.
20 633, 637 (C.D. Cal. 2005) (“Although irrelevance is not among the litany of enumerated reasons
21 for quashing a subpoena found in Rule 45, courts have incorporated relevance as a factor when
22 determining motions to quash.”); Fed. R. Evid. 401 (Evidence is relevant if “it has any tendency
23 to make a fact more or less probable than it would be without the evidence.”). “Whether a
24 burdensome subpoena is reasonable must be determined according to the facts of the case, such as
25 the party’s need for the documents and the nature and importance of the litigation.” Linder v.
26 Dep’t of Def., 133 F.3d 17, 24 (D.C. Cir. 1998) (internal citations and quotations omitted). The
27 court must limit discovery when the “the discovery sought is unreasonably cumulative or
28 duplicative, or can be obtained from some other source that is more convenient, less burdensome,

1 or less expensive; the party seeking discovery has had ample opportunity to obtain the
2 information by discovery in the action; or the proposed discovery is outside the scope permitted
3 by Rule 26(b)(1).” Fed. R. Civ. P. 26(b)(2)(C)(i-iii).

4 IV. Two Pending Subpoenas

5 A. Correctional Health Services

6 In the subpoena directed to “Correctional Health Services,” defendant seeks “any and all
7 medical records of Andrew Moak.” (ECF No. 27 at 6.) Plaintiff objects that his medical file at
8 the California Department of Corrections and Rehabilitation (“CDCR”) is privileged and not
9 relevant to plaintiff’s claims brought as a pretrial detainee housed in the Sacramento County Jail.
10 In response, defendant contends that at plaintiff’s deposition, defense counsel clarified that this
11 subpoena was directed to the Sacramento County Correctional Health Services, not the CDCR.
12 Defense counsel avers that plaintiff has no objection to the disclosure of his health records from
13 the Sacramento County Correctional Health Services records. (ECF No. 29 at 5.) Plaintiff did
14 not file a reply to defendant’s response; however, in his motion to quash, plaintiff notes that
15 defendant sent the subpoena to Valley State Prison Correctional Health Services. (ECF No. 28 at
16 2.)

17 The subpoena does not identify “Correctional Health Services” as the “Sacramento
18 County Correctional Health Services,” or “for the Sacramento County Jail;” the subpoena does
19 not state that the request is for Mr. Moak’s medical records from the Sacramento County Jail; and
20 no address for the nonparty subpoenaed is provided on the first page of the subpoena form. (ECF
21 Nos. 28 at 6; 29-1 at 2.) However, defendant provided a copy of the subpoena which bears a
22 proof of service on the second page reflecting that the subpoena was served on Bret Butler,
23 Medical Records Tech, California Health Services, P.O. Box 588500, Elk Grove, CA 95758.
24 (ECF No. 29-1 at 3.) A google search for Correctional Health Services, Elk Grove, brought up a
25 website that appears to be a California state website set up under the receivership established as a
26 result of the Plata v. Schwarzenegger class action against the State of California over the quality

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1 of medical care in the state's 33 prisons.¹ The California Correctional Health Care Services,
2 known as "CCHCS," appears to cover only state prisons, not county jails. Id. The general
3 contact information for this state government website is "California Correctional Health Care
4 Services, P.O. Box 588500, Elk Grove, CA 95658," the same address as that listed on the proof
5 of service for the instant subpoena. Id.

6 Thus, despite defendant's effort to assuage plaintiff's concern that the subpoena was
7 directed to the Sacramento County Correctional Health Services, and not the state prison, the
8 subpoena itself offers no such assurance. Rather, it appears that although the name was correct:
9 "Correctional Health Services," the subpoena was not served on the proper address.² Because the
10 subpoena was directed to an address for the receivership over state prisons, and not to the
11 Sacramento County Jail or the "Correctional Health Services" for Sacramento County, plaintiff's
12 motion to quash the subpoena directed to the Correctional Health Services and mailed to the
13 California Health Services is granted. However, this order is without prejudice to the issuance of
14 a subpoena to the medical records administrator for the Sacramento County Jail, and served on
15 the correct address.

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18 ¹ California Correctional Health Services, <www.cphcs.ca.gov>, accessed July 6, 2016.

19 ² The Sacramento County Sheriff's website identifies the "Correctional Health Services" as the
20 administrator of all health services to adult inmates within the county jail system. (Sacramento
21 Co. Sheriff's Dept.,
22 <www.sacsheriff.com/pages/organization/correctional_health/correctionalhealth.aspx>, accessed
23 July 6, 2016.) However, their website does not provide a physical address for the mailing of
24 medical records requests. Rather, the website provides an email address: ssd-chs-medical-records-fax@saccounty.net, a fax number, and a phone number at which a person may leave a
25 message.

26 The court observes that the proof of service also states that the manner of service was
27 "electronic." (ECF No. 29-1 at 3.) But the proof of service does not provide the electronic
28 address to which the subpoena was served. Thus, it may be that Bret Butler, Medical Records
Tech, works for the Correctional Health Services that administers the Sacramento County Jail
inmate medical records, and the subpoena was properly served. If such is the case, the
undersigned would entertain a request for reconsideration provided the request is accompanied by
a properly-completed proof of service.

1 B. Valley State Prison

2 In the subpoena directed to the Litigation Coordinator at the Valley State Prison (“VSP”),
3 defendant seeks plaintiff’s “entire non-confidential central file.” (ECF No. 29-1 at 6.) Plaintiff
4 objects to this subpoena, claiming that plaintiff’s prison central file is privileged and is irrelevant
5 to any facts stemming from the incidents that occurred in the Sacramento County Jail while
6 plaintiff was a pretrial detainee. (ECF No. 27 at 2.)

7 In response, defendant contends that there are no records of plaintiff making any
8 complaints concerning backflushing toilets while he was housed at the jail. (ECF No. 29 at 3.)
9 Defense counsel avers that she learned, and plaintiff confirmed at his deposition, that another
10 prisoner at VSP has been preparing nearly all of plaintiff’s filings and discovery in this action,
11 and has demanded a 15% cut of plaintiff’s recovery in exchange for such services. (ECF No. 29
12 at 3.) Defense counsel also learned that this same VSP prisoner has filed a large number of other
13 “backflush toilet” cases for numerous other inmates, involving different correctional institutions
14 around the state. (Id.) Defense counsel also learned that plaintiff is in the process of obtaining
15 two declarations from other VSP prisoners that will allegedly support plaintiff’s claims against
16 defendant. Therefore, defendant seeks plaintiff’s central file to determine whether plaintiff has
17 filed grievances involving similar complaints or claims against VSP or the CDCR, to obtain
18 plaintiff’s housing location within the prison as it relates to the location of other potential
19 witnesses/declarants; and records of any interactions with the prisoner who has drafted plaintiff’s
20 filings and discovery requests and/or plaintiff’s alleged witnesses/declarants. (ECF No. 29 at 4.)
21 Defendant argues that such records are “relevant as they may lead to the discovery of admissible
22 evidence regarding motive, intent and/or plan by plaintiff and his prison associates.” (Id.)
23 Defendant contends such information is important to refute plaintiff’s claims in this case, and
24 does not pose a burden to plaintiff or VSP as counsel believes the records are stored electronically
25 and can be produced by disk to defense counsel. Defendant argues that absent subpoena,
26 defendant has no other access to this CDCR/VSP information. (ECF No. 29 at 4.)

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1 The court finds that complaints filed after plaintiff was convicted and housed in CDCR
2 custody are of no relevance to plaintiff's allegations concerning his living conditions at the
3 Sacramento County Jail. Plaintiff's motion to quash the VSP subpoena is granted.

4 V. Conclusion

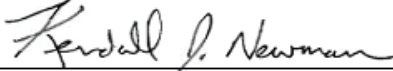
5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Plaintiff's motion to quash the subpoena issued to the Correctional Health Services
7 (ECF No. 28), and served on the California Correctional Health Care Services address, is granted,
8 without prejudice to the issuance of a subpoena for plaintiff's medical records from the
9 Sacramento County Jail or the "Correctional Health Services" which administers the Sacramento
10 County medical records, and served on the proper address;

11 2. Plaintiff's motion to quash the subpoena issued to the Valley State Prison Litigation
12 Coordinator (ECF No. 27) is granted; and

13 3. The Clerk of the Court is directed to serve a copy of this order on Bret Butler, Medical
14 Records Tech, Correctional Health Services, P.O. Box 588500, Elk Grove, CA 95758, and
15 Monica Pacifico, Litigation Coordinator, Valley State Prison, P.O. Box 99, Chowchilla, CA
16 93610-0099.

17 Dated: July 8, 2016

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE

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