Histon v. Tilton et al Doc. 37

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

) No. C 09-0979 JSW (PR)
ORDER GRANTING MOTIONS TO QUASH; DIRECTING DEFENDANT TO PROVIDE
) PLAINTIFF WITH MEDICAL PECORDS; EXTENDING TIME
))) (Docket Nos. 35 & 36)

Plaintiff, currently incarcerated at San Quentin State Prison in San Quentin, California, filed this civil rights complaint pursuant to 42 U.S.C. § 1983. The allegations in Plaintiff's amended complaint that certain Defendant Dr. Clarene David and others were deliberately indifferent to his serious medical needs were found to state cognizable claims for relief. Dr. David has filed a motion for summary judgment, and Plaintiff was granted an extension of time to November 8, 2011, in which to file an opposition.

Dr. David and non-party San Quentin State Prison have each filed a motion to quash a subpoena for documents. As the subpoena fails to comply with the technical requirements of Rule 45, including setting forth the proper text and allowing sufficient time to respond, the motions to quash are GRANTED. However, Plaintiff's request for a copy of his prison medical records is reasonable. Defendant has not shown that this would be unduly burdensome, and Plaintiff's medical records are certainly relevant to his claims that he received insufficient medical care. Accordingly, Defendant **shall** provide Plaintiff with a copy of either his entire medical record, or alternatively only

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those medical records pertaining to the medical conditions and medical care alleged in the amended complaint, within 10 days of the date this order is filed. If Defendant chooses the latter course and provides less than all of Plaintiff's medical records, Defendant shall show cause for doing so, also within 10 days of the date this order is filed. In order to show cause, Defendant shall show specifically why each record not provided is not relevant to Plaintiff's claims; general or conclusory statements that records are not relevant will not suffice. No extensions of these deadlines will be granted or considered. Defendant's failure to comply with this order will result in sanctions, which may include the denial of Defendant's motion for summary judgment.

A brief extension of time for Plaintiff to file any opposition to the summary judgment motion is GRANTED to and including **November 18, 2011**. No further extensions of time will be granted. Defendant **shall** file a reply brief on or before **December 1, 2011**.

IT IS SO ORDERED.

DATED: November 2, 2011

JEFFREY 8. WHITE

United States District Judge

1	LIMITED STATES DISTRICT COLIDT		
2	UNITED STATES DISTRICT COURT		
3	FOR THE		
4	NORTHERN DISTRICT OF CALIFORNIA		
5			
6	LARRY HISTON, Case Number: CV09-00979 JSW		
7	Plaintiff, CERTIFICATE OF SERVICE		
8	V.		
9	JAMES TILTON et al,		
10	Defendant.		
11			
12	I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. Distric Court, Northern District of California.		
13	That on November 2, 2011, I SERVED a true and correct copy(ies) of the attached, by placing		
14	said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office		
15	derivery receptacie located in the Clerk's office.		
16	Larry Histon		
17	J79124 San Quentin State Prison		
18	San Quentin, CA 94974		
19	Gennifer Ottolini		
20	Dated: November 2, 2011 Richard W. Wieking, Clerk By: Jennifer Ottolini, Deputy Clerk		
21	By. Jenniner Ottomii, Deputy Clerk		
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