

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 09-cv-00354-CMA-BNB

GREGG JOSEPH SAVAJIAN, #125166

Plaintiff,

v.

KEVIN MILYARD, Warden, Sterling Correctional Facility,
PHYSICIAN'S HEALTH PARTNERS, Facility Medical Provider,
DR. J. G. FORTUNADO, Staff Supr. Physician (PHP),
BRIAN WEBSTER, Physician's Asst. (PHP),
BEVERLY DOWIS, Facility Medical Administrator (PHP), and
OFFICER CHRIS WADE, Facility Transport Driver,

Defendants.

ORDER

This matter arises on the plaintiff's **Motion to Show Cause to Arrest/Subpoena Plaintiff's Medical Records From Defendant** [Doc. #25, filed 06/16/2009] (the "Motion").

The Motion is DENIED.

The plaintiff requests that the court "subpoena and take physical possession of plaintiff's medical records held in possession by the Defendants" This case has not yet been set for a Scheduling Conference. Thus, it is premature for the parties to engage in discovery. Fed. R. Civ. P. 26(d).

Moreover, insofar as the plaintiff is attempting to compel the defendants to produce discovery, the rules of civil procedure permit a party to file a motion to compel only after attempts to obtain discovery pursuant to the appropriate rules of discovery have failed. Fed. R. Civ. P. 37. Therefore, prior to filing any future motions to compel, the plaintiff must first

attempt to obtain the discovery pursuant to the rules.

Finally, discovery materials shall not be filed with the Court. Fed.R.Civ.P. 5(d).

Accordingly,

IT IS ORDERED that the Motion is DENIED.

Dated July 7, 2009.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge