

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GARY HANN,

Petitioner,

Case Number: 05-71347

v.

JUDGE PAUL D. BORMAN
UNITED STATES DISTRICT COURT

STATE OF MICHIGAN, et al.,

Respondent.

**ORDER ADOPTING THE MAGISTRATE JUDGE'S MAY 8, 2009 OPINION AND
ORDER EXCEPT AS TO REQUEST FOR PRODUCTION NOS. 4 AND 7**

Before the Court are Defendant CMS' May 22, 2009 Objections to the Magistrate Judge's May 8, 2009 Opinion and Order on Plaintiff's motion to compel discovery. That report: (1) granted in part and denied in part Plaintiff's Motion to Compel Production and Answers to Plaintiff's Discovery; and (2) set a deadline for Plaintiff's response to the CMS Defendants' dispositive motion.

Pursuant to Fed. R. Civ. P. 72(a), this Court reviews for clear error the portions of a magistrate judge's report and recommendation on a pre-trial non-dispositive motion to which a party has objected.

Having carefully considered the entire record, the Court is convinced that the Magistrate Judge is correct in his analysis of the facts and the law in this case, except as to Request for Production Nos. 4 and 7. Defendants do not have to produce Plaintiff's medical records that Defendants' counsel has in its possession. Plaintiff must conduct his own discovery. The Michigan

Department of Corrections (“MDOC”), not Defendants’ counsel, is the custodian of Plaintiff’s medical records and, therefore, Plaintiff must obtain his medical records from the MDOC.

Therefore, the Court **ADOPTS IN PART AND REJECTS IN PART**, the Magistrate Judge’s Opinion and Order (1) Granting In Part and Denying In Part Plaintiff’s Motion to Compel Production and Answers to Plaintiff’s Discovery; the CMS Defendants shall provide the further discovery responses and production within 14 days of this Order; and (2) Setting a Deadline of 30 days from the date of CMS Defendants’ compliance with this Order for Plaintiff’s Response to the CMS Defendants’ Dispositive Motion for Summary Judgment.

SO ORDERED.

S/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: September 3, 2009

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on September 3, 2009.

S/Denise Goodine
Case Manager