

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARTHUR MEYERS,
Plaintiff,

v.

Case No. 10-11419

M. NEIDERMEIER, et al.,
Defendants.

HONORABLE AVERN COHN

ORDER DENYING PLAINTIFF'S OBJECTIONS TO DISCOVERY ORDERS
(Docs. 73, 74)

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. The matter was referred to a magistrate judge for all pretrial proceedings. The parties have engaged in discovery, including the filing of discovery related motions upon which the magistrate judge has ruled. Before the Court are plaintiff's objections to two (2) of the magistrate judge's discovery orders.

II.

The decision and order of a non-dispositive motion by a magistrate judge will be upheld unless it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Massey v. City of Ferndale, 7 F.3d 506, 509 (6th Cir. 1993). "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has

been committed.” United States v. United States Gypsum Co., 333 U.S. 364, 395 (1948); Hagaman v. Comm'r of Internal Revenue, 958 F.2d 684, 690 (6th Cir. 1992). “If two permissible views exist, a magistrate judge's decision cannot be ‘clearly erroneous.’” Hennigan v. Gen. Elec. Co., 2010 WL 4179376 *2 (E.D. Mich. Oct.20, 2010) (unpublished). Rule 72(a) provides considerable deference to the determinations of magistrate judges. In re Search Warrants, 889 F. Supp. 296, 298 (S.D. Ohio 1995).

III.

Two (2) orders by the magistrate judge are at issue. First, defendants filed a motion to compel and extend time to disclose experts. Doc. 47. The magistrate judge granted the motion. Doc. 69. Plaintiff objects, essentially repeating the arguments considered and rejected by the magistrate judge with regard to release of his medical records. As the magistrate judge explained, plaintiff's medical information is relevant and discoverable.

Second, plaintiff filed a motion to compel discovery. Doc. 45. The magistrate judge denied the motion. Doc. 68. In his objections, plaintiff says that he magistrate judge failed to consider certain aspects of his motion to compel relating to defendant Neidermeier and “witness list interrogatories.” A review of plaintiff's discovery motion does not mention these items. Rather, the motion was directed as discovery responses by defendants Gilchrist and Kulhanek. To the extent plaintiff believes defendants have not responded to proper discovery requests, he should bring the matter to the magistrate judge in the first instance.

IV.

For the reasons stated above, plaintiff has not shown that the magistrate judge clearly erred in its ruling on the two (2) discovery motions. Accordingly, plaintiff's objections are DENIED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: September 8, 2011

I hereby certify that a copy of the foregoing document was mailed to Arthur Meyers, 182660, Macomb Correctional Facility, 34625 26 Mile Road, New Haven, MI 48048 and counsel of record on this date, September 6, 2011, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160