Evans v. Dzurenda et al Doc. 11

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

TODD EVANS.

Case No.: 3:18-cv-00283-RCJ-WGC

Plaintiff

Order

V.

Re: ECF No. 8

JAMES DZURENDA, et. al.,

Defendants

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Plaintiff has filed a motion requesting that an inmate law clerk be present for the hearing scheduled for May 24, 2019. He also requests to have his medical file for the hearing, and for review with the inmate law clerk prior to the hearing for a reasonable amount of time so Plaintiff 12 may have the inmate law clerk's assistance looking at the records. He mentions various records 13 that he seeks to review, including those concerning an eye doctor specialist, asthma specialist, 14 hep-c specialist diagnosis, neurologist reports after surgery, MRI reports, LAB reports, and 15 psychological testing. He also wants an order for testing the effects of suffering from blocked arteries in the area of various nerves. (ECF No. 8.)

The hearing on May 24, 2019, is to evaluate Plaintiff's claim of incompetence or inability to litigate this matter representing himself as asserted in his motion for guardian ad litem set forth in ECF Nos. 3, 5. Specifically, the court must determine whether there is a "substantial 20 question regarding Plaintiff's mental competence. See Harris v. Mangum, 863 F.3d 1133, 1138 (9th Cir. 2017) (citation omitted).

To that end, the court directed Plaintiff, as well as the Attorney General's Office to file 23 any documentation that relates to Plaintiff's claim of incompetence or the inability to represent

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himself, and in particular, medical or mental health records pertinent to Plaintiff's current level of competence and medical status.

Plaintiff has filed various medical records that the court has reviewed in preparation for the May 24, 2019 hearing. (See ECF No. 5-1, ECF No. 8 at 6-20.) The Attorney General's Office filed ten pages of mental health records from 2017 under seal. (ECF No. 9.) The Attorney General's Office did not file any medical records under seal, and it is not clear whether medical records exist related to Plaintiff's brain tumor and treatment related to the tumor, including surgery, that have not already been provided by Plaintiff. These records would be directly relevant to Plaintiff's claim that his condition is affecting his competence and ability to proceed pro se in this action.

The Attorney General's Office is ordered to file under seal any records concerning Plaintiff's brain tumor, as discussed above, **BEFORE 5:00 p.m. on Thursday May 23, 2019**.

Plaintiff's motion to have the assistance of an inmate law clerk at the hearing on Friday May 24, 2019, is **GRANTED**. The Attorney General's Office shall also ensure that Plaintiff and 15 his inmate law clerk assistant are given sufficient time to review any records filed under seal 16 related to the hearing in advance of the hearing (including those ordered to be filed by this Order). Therefore, Plaintiff's motion is also **GRANTED** to the extent he asks to have the assistance of the inmate law clerk in reviewing the records in preparation for the hearing. Plaintiff's request to have access to the records during the hearing is likewise **GRANTED**. Plaintiff's motion is **DENIED** in all other respects.

IT IS SO ORDERED.

22 Dated: May 22, 2019

Willen G. Cobb

William G. Cobb United States Magistrate Judge