

DISCUSSION

The doctrine of sovereign immunity “precludes a state court, and in turn a federal court on removal, from exercising jurisdiction to compel a government employee to testify contrary to agency instructions.” *Morgan v. Bagley*, No. 5:08-CV-217-BR, 2008 U.S. Dist. LEXIS 49225, at *2 (E.D.N.C. June 6, 2008) (citing *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951)). Thus, a federal employee “may not be forced to comply with [a] subpoena [] if a valid regulation required them not to comply.” *Smith v. Cromer*, 159 F.3d 875, 879 (4th Cir. 1998).; accord *Morgan*, 2008 U.S. Dist. LEXIS 49225, at *2.

Pursuant to 5 U.S.C. § 301, the SSA has promulgated regulations designed to deal with requests for testimony and documents from its employees regarding information obtained in the performance of their official duties. These regulations, set forth at 20 C.F.R. § 403.100 *et seq.*, prohibit the disclosure of information obtained in the course of employment, pursuant to a litigation request or demand, absent express approval of appropriate officials upon request by the party seeking the information. *See* 20 C.F.R. §§ 403.100, 403.105.

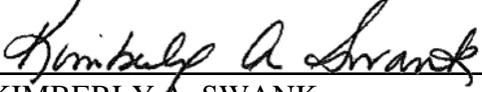
The subpoena at issue here is governed by the regulations set forth at 20 C.F.R. § 403.100 *et seq.* because it seeks testimony about information obtained by Dr. Newton in the performance of her official duties. As Respondent has not shown that he has obtained approval pursuant to the SSA’s regulations, Dr. Newton is prohibited from providing the testimony sought by Respondent’s subpoena.

CONCLUSION

For the foregoing reasons, the Government’s motion is GRANTED and Respondent’s subpoena directed to Dr. Newton is QUASHED. The Clerk is DIRECTED to serve a copy of

this order on the Clerk of Superior Court of Wayne County, North Carolina, and to close this matter.

This 14th day of November 2014.



KIMBERLY A. SWANK
United States Magistrate Judge