

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

VENKANNA KANNA, M.D.,	:	Case No. 2:11-cv-00004
	:	
Plaintiff,	:	JUDGE SARGUS
	:	
v.	:	MAGISTRATE JUDGE
	:	PRESTON DEAVERS
	:	
	:	
ERIC SHINSEKI, Secretary,	:	
United States Department of Veterans	:	
Affairs, et al.,	:	
	:	
Defendants.	:	

AGREED PROTECTIVE ORDER

Plaintiff Venkanna Kanna, M.D., seeks judicial review, under 38 U.S.C. § 7462, of the decision of the Department of Veterans Affairs to remove him from federal employment. (ECF No. 1, Compl. ¶ 7.) The VA’s administrative record is the subject of judicial review for claims under 38 U.S.C. § 7462. 38 U.S.C. § 7462(f)(2). The administrative record contains information and documents protected from disclosure by federal law, including VA patient medical records and personnel records concerning Dr. Kanna and other VA employees. This information is protected by the Privacy Act of 1974, 5 U.S.C. § 552a, the Health Insurance Portability and Privacy Act (HIPAA), 42 USC § 1320d, et. seq., and the VA’s patient confidentiality statute at 38 U.S.C. §§ 5701. It is hereby ORDERED under 5 U.S.C. § 552(a)(b)(11), 38 U.S.C. § 5701(b)(2), 45 C.F.R. § 164.512(e), and Federal Rule of

Civil Procedure 26(c) that the VA disclose to the Court and to Dr. Kanna's counsel a copy of the administrative record of Dr. Kanna's removal proceeding (bates labeled documents 1 through 2014), which contains protected information, without obtaining prior written consent of the individuals to whom the records pertain.

Such disclosure is subject to the following conditions:

1. The documents in the administrative record, and the information in those documents, shall be used only for this litigation and shall not be disclosed outside this litigation.

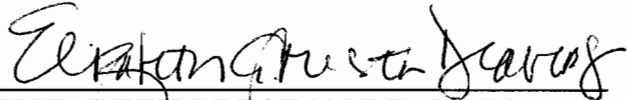
2. Access to and disclosure of all materials in the administrative record shall be limited to the Court, the parties, counsel for the parties and their paralegals and legal assistants. Dr. Kanna shall not disclose any documents or information from the administrative record to anyone other than the persons authorized under this Paragraph.

3. Counsel for Dr. Kanna agrees that the administrative record, as well as every copy of the administrative record or any portions of it, shall be returned to the undersigned attorneys at the U.S. Attorney's Office for the Southern District of Ohio, within 30 days of a final decision in this matter. Instead of returning the administrative record and any copies made, counsel for Dr. Kanna may also destroy those materials and provide written assurance of their destruction to the undersigned attorneys at the U.S. Attorney's Office for the Southern District of Ohio, within 30 days of a final decision in this matter.

4. Dr. Kanna's obligations set forth in this Agreed Protective Order shall apply to his counsel and anyone acting on behalf of Dr. Kanna to the same extent as they apply to him.

5. Any disclosures of information or documents protected by this Order to an unauthorized person or persons may result in a criminal violation of the statutes referenced in this Agreed Protective Order.

SO ORDERED this 6th day of January, 2012.


ELIZABETH PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE

Agreed to by:

CARTER M. STEWART
United States Attorney

s/John J. Stark
CHRISTOPHER R. YATES (0064776)
JOHN J. STARK (0076231)
Assistant United States Attorneys
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215
Telephone: (614) 469-5715
E-mail: christopher.yates@usdoj.gov
E-mail: john.stark@usdoj.gov

Counsel for the United States Department of Veterans Affairs

s/Douglas Eric Graff
DOUGLAS E. GRAFF (0013222)
JAMES M. McGOVERN (0061709)
LEVI J. TKACH (0086025)
Graff & Associates LPA
604 East Rich Street
Columbus, OH 43215-5341
Telephone: (614) 228-5800
Fax: (614) 228-8811
doug@graflaw.com

Counsel for Plaintiff Venkanna Kanna, M.D.