

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID E. SIERRA-LOPEZ,

Plaintiff,

v.

DR. PERSIKE and DR. WHITE,

Defendants.

ORDER

17-cv-646-bbc

DAVID E. SIERRA-LOPEZ,

Plaintiff,

v.

JAMIE GOHDE, JESSE BEAVER, DONNA MAYHEW,
TIMOTHY DETERS, TRISHA ANDERSON, MARGARET KIECA,
THOMAS MITCHELL, JAMES BATES, STEVE DITTMAN,
RANDALL BENNIGER and BRADLEY JAHNKE,

Defendants.

ORDER

18-cv-60-bbc

Pro se plaintiff and prisoner David E. Sierra-Lopez is proceeding in both of these cases on Eighth Amendment claims against staff at the Columbia Correctional Institution. Several motions are now before the court: (1) plaintiff’s motion to stop prosecution of these cases, dkt. #68 in 17-cv-646-bbc; dkt. #36 in 18-cv-60-bbc; (2) plaintiff’s motion to compel in case number 17-cv-646-bbc, dkt. #71; and (3) defendants’ motion to compel or for dismissal, in 18-cv-60-bbc, dkt. #28. For the reasons set out below, I am denying plaintiff’s motion to stop prosecution, but will grant his motion to compel. I will grant in part and deny in part defendants’ motion to compel in 18-cv-60-bbc.

OPINION

A. Plaintiff's Motion to Stop Prosecution of these Cases

On September 14, 2018, plaintiff filed a motion in both cases seeking to “stop the prosecution of the case temporarily” on the grounds that he is suffering a “mental breakdown” and feeling “suicidal and self-harming and needs to go on a suicidal watch placement.” Dkt. #68 in 17-cv-646-bbc; dkt. #36 in 18-cv-60-bbc. He states that his grandmother died and he is having difficulty coping with the situation. Dkt. #69 in 17-cv-646-bbc; dkt. #37 in 18-cv-60-bbc. He further states that if he is placed on suicide watch, he will not have any means to contact defendants or the court. Id.

I am denying plaintiff's motion to stay proceedings in this case because a stay does not appear to be necessary. Since filing his motion to stop proceedings, plaintiff has not submitted anything more about his mental state or housing situation. However, he has filed a motion to compel, dkt. #71 in 17-cv-646-bbc, and a letter requesting copies and blank complaint and habeas forms. Dkt. #39 in 18-cv-60-bbc. Thus, plaintiff appears to be able to contact the court and advocate for himself despite his mental health problems and emotional instability.

B. Plaintiff's Motion to Compel in Case Number 17-cv-646-bbc

In support of his motion to compel, plaintiff argues that defendants Persike and White failed to respond to discovery requests he submitted in April and May 2018. Defendants agree that they owe plaintiff discovery responses, and explain that they did not respond to these requests initially because discovery was stayed pending the outcome of their

motion for summary judgment on exhaustion grounds. Dkt. #71-6. After the motion for summary judgment was denied with respect to defendants Persike and White, defendants' failure to respond to plaintiff's discovery requests was an oversight. Defendants state that they will respond within 14 days of the court's ruling on plaintiff's motion to stay the case. Therefore, I will grant plaintiff's motion to compel. Defendants are to provide responses to plaintiff's discovery requests within 14 days of the date of this order.

C. Defendants Deters and Kieca's Motion to Compel in 18-cv-60-bbc

Defendants Timothy Deters and Margaret Kieca filed a motion to compel plaintiff to sign an authorization for release of his medical records. Dkt. #28. Pending a decision on the motion to compel, Magistrate Judge Crocker suspended the deadline to file dispositive motions on exhaustion. Dkt. #32.

Plaintiff has objected to the motion to compel on procedural grounds, but has not raised any specific arguments about the scope of the medical releases. Nonetheless, I conclude that the requested releases are overly broad. Plaintiff's only claim in this case is that he was denied acetaminophen to control swelling after his tonsils were removed in March 2017. Defendants have asked plaintiff to sign medical releases for records from the Wisconsin Department of Corrections, UW Hospitals and Clinics and UW Health. The proposed releases are not limited in time or scope, and seek all records pertaining to any treatment for any condition, including HIV and AIDS, alcoholism or drug dependency and mental and psychological health, among other areas. Dkt. #30-1. Most of these records have no potential relevance to the very narrow claim at issue in this case.

Defendants are entitled to review plaintiff's medical information and records related to any mental, physical or emotional illness or condition for which plaintiff alleges that defendants denied him treatment or for which plaintiff seeks compensation. However, defendants' requests are excessive. Thus, I will require defendants to limit the scope of their requests from January 2017 to the present and to cover records relating only the medical condition at issue in this lawsuit. Defendants may have until November 5, 2018 to modify the proposed medical release. Plaintiff may have until November 16, 2018 to sign the new release form.

ORDER

IT IS ORDERED that

1. Plaintiff David E. Sierra-Lopez's motions to stop prosecution of these cases, dkt. #68 in 17-cv-646-bbc and dkt. #36 in 18-cv-60-bbc, are DENIED.

2. Plaintiff's motion to compel, dkt. #71 in 17-cv-646-bbc, is GRANTED. Defendants may have 14 days from the date of this order to provide responses to plaintiff's discovery requests detailed in his motion.

3. Defendants Timothy Deters and Margaret Kieca's motion to compel, dkt. #28 in 18-cv-60-bbc, is GRANTED IN PART and DENIED IN PART. Defendants may have until November 5, 2018 to modify the proposed medical release as set forth above. Plaintiff may have until November 16, 2018 to sign the new release form.

4. The deadline for filing dispositive motions on exhaustion in case number 18-cv-60-

bbc is November 26, 2018.

Entered this 31st day of October, 2018.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge