

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL B. CHLADEK and : CIVIL ACTION  
MARIE CHLADEK :  
 :  
v. :  
 :  
COMMONWEALTH OF PENNSYLVANIA, et al. : NO. 97-0355

MEMORANDUM AND ORDER

HUTTON, J.

March 9, 1998

Presently before this Court is the Motion by Plaintiff Michael B. Chladek and Plaintiff Marie Chladek to Compel Answers to Interrogatories and Production of Documents and Things Directed to Defendant John Founds (Docket No. 36); the Motion by Plaintiff Michael B. Chladek and Plaintiff Marie Chladek to Compel Answers to Interrogatories and Production of Documents and Things Directed to Defendant David Dettinburn (Docket No. 37); and the Motion by Plaintiff Michael B. Chladek and Plaintiff Marie Chladek to Compel Answers to Interrogatories and Production of Documents and Things Directed to Defendant David Knorr (Docket No. 38). For the reasons set forth below, the plaintiff's Motions are **DENIED**.

**I. BACKGROUND**

The plaintiffs have alleged the following facts. On the morning of September 17, 1996, plaintiff Michael Chladek heard "banging at [the] front door" of his home. Pls.' Am.

Compl. ¶ 25. Michael Chladek proceeded towards the door, where he saw several officers standing on the porch. Id. Plaintiff Marie Chladek opened the foyer door, and several officers forced their way into the plaintiffs' house. Id. ¶ 44. Michael Chladek then heard a "crashing noise at the back door," and "proceeded to the rear of his home where he viewed several more [officers] break in his back door." Id. ¶ 25.

David Milligan, Donna Henry, David M. Dettinburn, John E. Founds, Thomas J. Micek, and two unknown persons, all state parole agents (collectively referred to as "state parole agents"), entered the plaintiffs' "house and struck, punched, hit and wrestled Michael Chladek to the floor." Id. ¶ 26. The state parole agents handcuffed Michael Chladek's hands behind his back and took him into custody. Id. ¶¶ 26-27.

After he was handcuffed, the state parol agents "pulled . . . Chladek to his knees and began a vicious assault upon him, beating him about his body, legs, arms and back with a club and/or other instruments." Id. ¶ 28. The state parole agents dragged Chladek out of his home through the front door. Id. ¶ 29. Once outside, the state parole agents continued to "beat . . . Michael Chladek on his back, chest, arms, legs, and about his body with their clubs and other instruments and knocked [Michael Chladek] against an automobile." Id. ¶ 33. Michael Chladek suffered vast bodily injuries from the attack. Id. ¶ 28.

Marie Chladek witnessed the attack, until the state parole officers struck, pushed and grabbed her, forcing her into "a small space" inside the house. Id. ¶ 46. The state parole agents held Marie Chladek in that space "without allowing her to move." Id.

Although Michael Chladek informed the state parole officers that he was injured, Michael Chladek's "plea for medical attention" was ignored. Id. ¶ 35. The state parole agents transported Michael Chladek to the divisional headquarters of the Pennsylvania Board of Probation and Parole. Id. ¶ 36.

Once Michael Chladek arrived at the divisional headquarters, a state parole officer placed Michael Chladek "in a holding cell for approximately [seven] hours." Id. ¶ 37. Again, Michael Chladek's requests for medical attention were ignored. Id. Moreover, after Michael Chladek was transferred to the Pennsylvania State Correctional Institution at Graterford ("Graterford Prison"), he received inadequate medical attention. Id. ¶ 38.

The plaintiffs filed the instant suit on January 16, 1997. The plaintiffs' remaining claims can be divided into two categories: (1) claims against Defendants Milligan, Henry, Dettinburn, Founds, and David Knorr ("Knorr") in their personal capacities based on 42 U.S.C. § 1983; and (2) pendent state law claims against Defendants Milligan, Henry, Dettinburn, Founds,

and Knorr.\<sup>1</sup> On October 20, 1997, the plaintiffs filed the present motions.

## II. DISCUSSION

### A. Scope of Discovery

Rule 26(b)(1) of the Federal Rules of Civil Procedure provides that "[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . . ." Fed. R. Civ. P. 26(b)(1). "Relevancy, and to a lesser extent burdensomeness, constitute the principal inquiry in ruling upon objections to interrogatories." McCain v. Mack Trucks, Inc., 85 F.R.D. 53, 57 (E.D. Pa. 1979). The scope of discovery, however, is not without

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1. In their Amended Complaint, the plaintiffs named the following parties as defendants: (1) the Commonwealth of Pennsylvania; (2) the Pennsylvania Board of Probation and Parole (the "Board"); (3) State Parole Agent David Milligan ("Milligan"); (4) State Parole Agent Donna Henry ("Henry"); (5) State Parole Agent David M. Dettinburn ("Dettinburn"); (6) State Parole Agent John E. Founds ("Founds"); (7) State Parole Agent Thomas J. Micek ("Micek"); (8) two unknown state parole agents; (9) the Pennsylvania Department of Corrections; (10) Prisoner Commissioner Martin Horn ("Horn"); (11) Deputy Prison Commissioner for Central Region Jeffrey Beard ("Beard"); (12) Superintendent Donald Vaughn ("Vaughn"); and (13) four unknown Graterford Prison guards. The plaintiffs alleged that the defendants' conduct violated sections 1983, 1985(3), 1986, and 1988, under the First, Fourth, Eighth and Fourteenth Amendments. Moreover, the plaintiffs asserted claims for Assault and Battery (Count VI), Malicious Abuse of Process (Count VII), False Arrest (Count VIII), False Imprisonment (Count IX), and Intentional Infliction of Emotional Distress (Count X).

On July 21, 1997, this Court granted the Uncontested Motion of Defendants Commonwealth of Pennsylvania, Pennsylvania Department of Corrections, Horn, Beard and Vaughn to Dismiss the Plaintiffs' Amended Complaint. On January 28, 1998, this Court dismissed all claims against Defendant Pennsylvania Board of Probation and Parole. Moreover, the Court dismissed all claims against Defendants Milligan, Henry, Dettinburn, Founds, and Knorr in their official capacities and all claims against Defendants Milligan, Henry, Dettinburn, Founds, and Knorr based on 42 U.S.C. §§ 1985 and 1986.

its limits, and is "committed to the sound discretion of the trial court." Id. "The party seeking discovery has the burden of showing clearly that the information sought is relevant to the subject matter of the action and would lead to admissible evidence." Id.

**B. Interrogatories 5, 7, 8, and 9**

In Interrogatories 5, 7, 8, and 9, the plaintiffs ask Defendants Dettinburn, Founds, and Knorr to write extensive summaries concerning plaintiff Michael Chladek's arrest. The defendants objects to these interrogatories, claiming that they are unduly burdensome, because the plaintiffs admit that they intend to depose the defendants on the same subjects. The plaintiffs "concede that the information sought in interrogatories 5, 7, 8, and 9 could be obtained more appropriately through other means of discovery." Pls.' Reply at 1. Accordingly, the plaintiffs' Motions are denied with respect to Interrogatories 5, 7, 8, and 9.

**C. Document Requests 10 and 11**

In Document Requests 10 and 11, the plaintiffs request documents relating to any investigation performed by the Office of Inspector General ("OIG"), whereby the OIG sought information from the defendants concerning their arrest of Michael Chladek. The plaintiffs seek "all correspondence, memoranda, or other

documents" relating to this investigation. The OIG, however, rather than these individual defendants, is the appropriate subject of the requests. Because the OIG has filed a Motion to Quash the Plaintiffs' Subpoena, setting forth their arguments that their reports regarding their investigations are privileged, the Court will address this issue when confronting the OIG's motion. Accordingly, the plaintiffs' motions are denied with respect to document requests 10 and 11.

**D. Interrogatories 1 and 19**

The plaintiffs have withdrawn their request for information sought in Interrogatory 1. Moreover, the plaintiffs agree that they have received the information contained in Interrogatory 19. Accordingly, the plaintiffs' motions are denied with respect to these requests.

**E. Interrogatory 20**

In Interrogatory 20, the plaintiffs ask: "[W]hether or not the Pennsylvania Board of Probation and Parole has any mechanisms designed to prevent and/or correct instances of abuse of authority or dereliction of proper procedure." The defendants assert that they have answered this question to the best of their ability, by stating in their response that: "The Pennsylvania Board of Probation and Parole conducts training for all agents, requires supervisory approvals for many actions taken by parole

agents, and has a disciplinary policy." Defs.' Resp. to Pls.' Interrogs. at 10. Moreover, the defendants argue that a further response would require "policy-level information about which the Agents cannot speak authoritatively." Defs.' Mem. in Opp'n at 10.

While the plaintiffs claim that "[t]hese policies are relevant in dictating how agents performed and discharge their duties," this argument is not persuasive. Pls.' Reply at 2. As explained earlier, this Court dismissed all Section 1983 claims against these defendants in their official capacities. While the plaintiffs' claims against these defendants in their personal capacities are still viable, the plaintiffs' have failed to show how this information "is relevant to the subject matter of the action and would lead to admissible evidence." McCain, 85 F.R.D. at 57. Moreover, the defendants claim that they have answered the interrogatory to the best of their abilities. Accordingly, the plaintiffs' motions are denied with respect to Interrogatory 20.

**F. Document Requests 2 and 5**

In Document Request 2, the plaintiffs request all documents referred to in the defendants' answers to interrogatories. In Document Request 5, the plaintiffs seek "[a]ll documents submitted by [the defendants] to the Pennsylvania Board of Probation and Parole." The defendants

contend that they have met the request for documents referred to in their answers. Moreover, they claim that the plaintiffs' request for all documents submitted by them to the Board is overly broad.

The plaintiffs do not dispute the defendants' assertion that Document Request 5 is overly broad. Moreover, the plaintiffs agree that the defendants have delivered the documents sought in Document Request 2, with the exception of the documents discussed herein. Accordingly, the plaintiffs' motions are denied with respect to Document Requests 2 and 5.

**G. Interrogatories 22 and 23**

In Interrogatory 22, the plaintiffs request that the defendants: "Identify every counselor, therapist, social worker, psychologist, medical doctor, and/or other mental health professional whom you have consulted and/or been treated by in the past ten years in connection with any emotional distress and/or other emotional or mental health issues." The plaintiffs argue that they do not "request defendants to disclose their communications with any health care professionals," but rather ask whether and "when these professionals were consulted and the reasons for any such consultation." Pls.' Reply at 3. The plaintiffs argue that this information might lead to admissible evidence because the defendants' emotional health is relevant to their general behavior.

In Interrogatory 23, the plaintiffs state: "List every instance when you took a controlled substance in the past ten years. For each instance, state the date, time, type of substance, quantity consumed and the manner taken. In addition, state whether or not you have ever been arrested for drug use. If so, state the date, nature, and circumstances surrounding any such arrest." Again, the plaintiffs argue that this information might lead to admissible evidence because these factors may have influenced the defendants' behavior.

As explained above, "[t]he party seeking discovery has the burden of showing clearly that the information sought is relevant to the subject matter of the action and would lead to admissible evidence." McCain, 85 F.R.D. at 57. "Relevancy, and to a lesser extent burdensomeness, constitute the principal inquiry in ruling upon objections to interrogatories." Id. Although the plaintiffs argue that the defendants' mental health histories are admissible "for the purpose of demonstrating motive, intent, etc.," the plaintiffs fail to explain their reasoning. While the plaintiffs request information about any consultations the defendants may have had with mental health professionals, the plaintiffs do not identify the admissible evidence they might discover. Thus, the plaintiffs fail to meet their burden with respect to Interrogatory 22.

Furthermore, the plaintiffs fail to meet their burden with regard to Interrogatory 23, which inquires into any substance abuse by the defendants. While the plaintiffs state that this information is discoverable because it may have influenced the defendants' behavior, this Court finds the plaintiffs' assertion unpersuasive. The plaintiffs have failed to show how a list of "every instance [the defendants'] took a controlled substance in the past ten years," might have influenced the defendants the day they arrested Michael Chladek.

Further, because Interrogatories 22 and 23 include such broad language, they are unduly burdensome. Each interrogatory requests extensive, immaterial information, some of which is clearly barred by certain privileges and privacy interests. "Dissemination of . . . very personal therapy or psychiatric records clearly implicates significant privacy interests . . . . Moreover, the improper use of this information may likely cause serious harm to each plaintiff, both personally and professionally." Delgrande v. Temple University, No.CIV.A.96-3878, 1997 WL 227811, \* 2 (Apr. 29, 1997). Moreover, "records of substance abuse, [as well as] the contents of the records about substance abuse," may be privileged in certain situations. Carr v. Allegheny Health, Educ., and Research Found., 933 F. Supp. 485, 488-89 (W.D. Pa. 1996); Boyle v. Jensen, 150 F.R.D. 519,

521-22 (M.D. Pa. 1993); Littlejohn v. Prism Integrated Sanitation Management, No.CIV.A.90-4350, 1992 WL 202146, \* 1-2 (E.D. Pa.

Aug. 6, 1992). Thus, the Court denies the plaintiffs' Motion with regard to Interrogatories 22 and 23.

An appropriate Order follows.

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O R D E R

AND NOW, this 9th day of March, 1998, upon consideration of the Motion by Plaintiff Michael B. Chladek and Plaintiff Marie Chladek to Compel Answers to Interrogatories and Production of Documents and Things Directed to Defendant John Founds (Docket No. 36); the Motion by Plaintiff Michael B. Chladek and Plaintiff Marie Chladek to Compel Answers to Interrogatories and Production of Documents and Things Directed to Defendant David Dettinburn (Docket No. 37); and the Motion by Plaintiff Michael B. Chladek and Plaintiff Marie Chladek to Compel Answers to Interrogatories and Production of Documents and Things Directed to Defendant David Knorr (Docket No. 38), IT IS HEREBY ORDERED that the plaintiffs' Motions are **DENIED**.

BY THE COURT:

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HERBERT J. HUTTON, J.