



mental health information from his confidential medical records to Assistant Attorney General Charissa Payer. Plaintiff maintains the information was provided without his authorization and in violation of defendant's policy requiring inmate consent prior to the release of any medical or mental health information. Defendant contends that plaintiff waived his physician-patient privilege by putting his mental health history at issue in two federal lawsuits filed against defendant's employees.

{¶5} On November 2, 2000, plaintiff filed a complaint in federal court against several employees of defendant, which alleged that they had violated his Eighth Amendment right against cruel and unusual punishment. (*Watley v. Carter, et al.*, Defendant's Exhibit A.) Plaintiff filed a second complaint in federal court on April 17, 2001, in which he alleged defendant's employees had deprived him of mental health services and treatment. (*Watley v. Parks, et al.*, Defendant's Exhibit B.) One of the defendants in the *Parks* case was Dr. Gary Beven, Chief Psychiatrist for SOCF, who allegedly disclosed plaintiff's confidential medical information.

{¶6} The defendants in the two federal lawsuits were represented by Assistant Attorney General Charissa Payer. As part of the discovery process in the federal cases, the court ordered plaintiff's mental health records to be submitted under seal for an in camera inspection. Assistant Attorney General Payer obtained plaintiff's records from defendant and submitted them to the court pursuant to court order. Dr. Bevin also provided information from plaintiff's mental health file to Assistant Attorney General Payer in the defense of the two federal lawsuits. (Payer Affidavit, Defendant's Exhibit E.)

{¶7} The court finds that by filing two federal medical claims against defendant's employees or agents, plaintiff waived any physician-patient privilege. R.C. 2317.02(B)(1)(a)(iii) provides that the privilege is waived "if a medical claim \*\*\* or any other type of civil action \*\*\* is filed by the patient." Furthermore, counsel for defendant was legally entitled to information in plaintiff's medical file for the purpose of defending lawsuits that

plaintiff had filed in federal court. *Hunt v. Dept. of Rehab. & Corr.* (1991), 77 Ohio App.3d 804.

{¶8} For the foregoing reasons, defendant's motion for summary judgment is GRANTED and judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

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JUDGE

Entry cc:

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