

1996 WL 633223

Only the Westlaw citation is currently available.
United States District Court, S.D. New York.

Louis MILBURN, et al., (by and on behalf of
Harold SCOTT an individual class member),
Plaintiff,

v.

Thomas A. COUGHLIN, III, et al., Defendants.

No. 79 Civ. 5077 (RJW). | Nov. 01, 1996.

Opinion

MEMORANDUM DECISION AND ORDER

WARD, District Judge.

*1 Harold Scott (“Scott”), a member of the plaintiff class, appearing *pro se*, has filed a motion pursuant to Section XXXIX–D of the Modified Final Judgment (“Judgment”) and Rule 65(c), Fed.R.Civ.P., to hold defendants in contempt of the Judgment, and for injunctive relief and sanctions.

Section XXVII–B of the Judgment bars the transfer of an inmate from Green Haven Correctional Facility (“Green Haven”) to another correctional facility if that inmate is awaiting “a follow-up specialist appointment, or follow-up care at a hospital or other outside health care facility, within the next 90 days, when such follow-up care is for treatment or diagnostic evaluation.” An inmate who “is scheduled for follow-up care at an outside health care facility solely for monitoring of his medical condition” is, however, “excluded from this restriction on transfer.”

In a motion dated January 29, 1996, Scott alleges that defendants violated this provision of the Judgment. Specifically, Scott claims that his transfer from Green Haven on or about July 25, 1993 was improper because he was awaiting an appointment with a follow-up specialist for a condition that had been diagnosed as tremors. Scott further contends that the medical care he did receive subsequent to his transfer was inadequate.

Defendants argue that Scott’s transfer from Green Haven

was not restricted by Section XXVII–B of the Judgment because his follow-up specialist appointment was scheduled solely for the purpose of monitoring his already stabilized condition. In support of their argument, defendants cite to the Consultant Report documenting Scott’s last specialist appointment on June 8, 1993, the month before his transfer. The Consultant Report indicates that Scott’s tremors were better, that there was much improvement, and that Scott was to continue taking his medication and return to the clinic in three months. Moreover, defendants note that Scott saw physicians on several occasions at the facilities where he was housed following his transfer from Green Haven, and that Scott was examined by a certified neurologist on March 16, 1995.

This Court agrees with defendants that Scott’s transfer from Green Haven was not improper under Section XXIX–B. Scott’s scheduled follow-up appointment was for monitoring purposes only, and thus defendants were not prohibited from transferring him before that follow-up appointment. In addition, the record suggests that while the medical care Scott received following his transfer from Green Haven was not ideal, it is not a proper basis on which to grant the relief Scott now requests. This Court is, however, sympathetic to Scott’s concerns regarding the discontinuity of his medical treatment. Given his medical history as documented in the record, this Court finds it appropriate for defendants to schedule an appointment for Scott with a neurologist who will design, in his own discretion, a follow-up treatment plan for Scott’s medical care. Specifically, the neurologist should diagnose Scott, prescribe any necessary medication, and set up any necessary follow-up appointments.

*2 Accordingly, Scott’s motion is denied on the following conditions: that, within sixty days of the date of this decision, Scott receive an appointment with a neurologist; that the neurologist who examines Scott design a follow-up treatment plan for his medical care (“the plan”); that defendants use their best efforts to ensure that the plan is implemented as designed; and that this Court receive notification of the results of Scott’s neurologist appointment, including a copy of the plan, within ten days thereafter.

It is so ordered.