

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

VONDELL WILBOURN, individually
and for others similarly situated,

Plaintiff,

-VS-

SHERIFF OF COOK COUNTY and
COOK COUNTY, ILLINOIS,

Defendants.

Case No. 23-cv-1782

Honorable Manish S. Shah
Magistrate Judge Young B. Kim

**DEFENDANTS' UNOPPOSED MOTION FOR
LEAVE OF COURT TO SERVE SUBPOENAS**

Defendants, SHERIFF OF COOK COUNTY and COOK COUNTY, ILLINOIS, by their attorney, EILEEN O'NEILL BURKE, State's Attorney of Cook County, through her Special Assistant State's Attorneys, JOHNSON & BELL, LTD., respectfully request leave of court to serve subpoenas for records relating to Plaintiff's medical care. In support of their motion, Defendants state as follows:

1. Defendants seek leave of court to serve subpoenas on Chicago Family Health, Metropolitan Family Services, and the Social Security Administration based on facts learned during Plaintiff's deposition. As set forth below, good cause exists to allow Defendants to seek records from these entities.

2. On March 1, 2024, the Court entered an order granting in part and denying in part Defendants' motion to dismiss. (Order, ECF No. 26.)

3. The Court held, *inter alia*, that Plaintiff’s “complaint includes allegations that the Sheriff’s officers handcuffed Wilbourn in front of his minor children,” which “is enough to suggest

an emotional injury independent of the time credited to his criminal sentence, enough to posit a concrete injury redressable by nominal damages.” (*Id.* at 5.)

4. On August 7, 2024, Defendants served a notice for Plaintiff’s deposition to inquire, in part, into the emotional injuries Plaintiff alleges he sustained.

5. Due to medical leave taken by Plaintiff’s counsel, including an extended recovery period after knee replacement surgery (Status Report, ECF No. 47), Plaintiff’s deposition was postponed.

6. As late as February 28, 2025, Plaintiff’s counsel was “skeptical that these depositions [including Plaintiff’s deposition] [could] be completed by the current discovery cutoff date of March 31, 2025.” (Status Report, ECF No. 49.)

7. On March 3, 2025, the Court ordered that the parties may take depositions until April 30, 2025, but no additional discovery may be requested. (Minute Entry, ECF No. 50.) The Court also set the following briefing schedule on Plaintiff’s motion for class certification: Plaintiff’s motion is due May 15, 2025, Defendants’ response is due June 5, 2025, and Plaintiff’s reply is due June 12, 2025. (*Id.*)

8. On April 7, 2025, Plaintiff was deposed, and the deposition was continued and completed on April 11, 2025. Plaintiff testified about his mental and emotional health conditions, which he discussed with medical professionals at Chicago Family Health and Metropolitan Family Services, as well as in connection with his application for Social Security disability benefits.

9. Defendants seek leave of court to serve subpoenas on Chicago Family Health, Metropolitan Family Services, and the Social Security Administration (SSA) requesting Plaintiff’s records.

10. The Court entered an agreed HIPAA qualified protective order on September 6, 2024. (Order, ECF No. 41.) Defendants can use the HIPAA order to obtain records from the two health centers, but the SSA requests that a separate consent form be provided to release records. Plaintiff agrees that he will be able to sign and return the SSA consent form within a week, or by April 18, 2025.

11. Defendants' request for records will not delay or otherwise interfere with the current class certification briefing schedule. Neither party intends to rely on the records in their class certification filings, and neither party will request to alter the class certification briefing schedule based on the availability of the records.

12. This motion is not brought for the purpose of delay or for any improper purpose but rather to give Defendants the opportunity to obtain discovery based on facts learned during Plaintiff's deposition.

13. Defendants shared a draft of this motion with Plaintiff's counsel, who stated that he does not oppose the motion.

WHEREFORE, Defendants SHERIFF OF COOK COUNTY and COOK COUNTY, ILLINOIS, respectfully request that this Honorable Court grant Defendants leave to serve subpoenas on Chicago Family Health, Metropolitan Family Services, and the Social Security Administration.

Respectfully submitted,

EILEEN O'NEILL BURKE
State's Attorney of Cook County

Dated: April 11, 2025

/s/ Samuel D. Branum
Special Assistant State's Attorney

Monica Burkoth (burkothm@jbltd.com)
Samuel D. Branum (branums@jbltd.com)
JOHNSON & BELL, LTD.
33 W. Monroe, Ste. 2700
Chicago, Illinois 60603
(312) 372-0770