

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

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EUGENE L. CHERRY,

Plaintiff,

v.

GERALD BERGE, CINDY SAWINSKI,  
JOLENE MILLER, JOLINDA WATERMAN,

Defendants.

ORDER

02-C-544-C

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EUGENE L. CHERRY,

Plaintiff,

v.

JON LITSCHER, GERALD BERGE,  
JIM PARISI, TIMOTHY MASON,  
PAM BARTELS, KATHRYN McQUILLAN,  
JOHN SHARPE, and YASMIN YUSUF-SAFAVI,

Defendants.

02-C-394-C

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On June 27, 2003, I granted defendants' motions for summary judgment in both of these cases. Plaintiff has filed a timely motion to alter or amend the judgment pursuant to

Fed. R. Civ. P. 59, in which he claims that I erred on several grounds. With one exception, his motion consists of a rehash of the arguments he made on summary judgment that do not require a response. Plaintiff's one new argument is that I erred in dismissing his claim against several of the defendants who denied him medication on multiple occasions for inappropriate behavior such as exposing himself to nurses. To prevail on this claim, plaintiff was required to propose facts showing both that defendants had acted with deliberate indifference to his health or safety *and* that defendants had created an excessive risk to his health. See Estelle v. Gamble 429 U.S. 97 (1976). In the June 27 opinion I concluded that I did not have to decide whether defendants acted with deliberate indifference because plaintiff had failed to propose any facts showing that their actions had created an excessive risk to his health.

In his motion, plaintiff argues that his affidavits "clearly sho[w] that he was in excruciating pain from not receiving his medications," though he does not cite any specific paragraph in any of his affidavits to support this assertion. However, regardless what plaintiff's affidavit says, he does not deny that he failed to propose any facts showing that the failure to receive every dose of his medication caused a risk to his health. Under this court's procedures to be followed on motions for summary judgment, a copy of which was provided to plaintiff with the preliminary pretrial conference order, all facts necessary to sustain a party's position on a motion for summary judgment must be proposed as findings

of fact. The purpose of proposed findings of fact is “to alert the court to precisely what factual questions are in dispute and point the court to the specific evidence in the record that supports a party’s position.” Waldrige v. American Hoechst Corp., 24 F.3d 918, 920-21 (7th Cir. 1994). Complete proposed findings of fact are especially important in a case like this one. Plaintiff filed several motions for summary judgment and he submitted new evidence with each motion that he filed. He also submitted numerous exhibits, many of which were not labeled. It is not the court’s job to search through the record to find relevant information. Johnson v. Cambridge Industries, Inc., 325 F.3d 892, 898 (7th Cir. 2003). Thus, this court will not consider evidence that may exist somewhere in the record but has not been proposed as a finding of fact.

Although plaintiff is representing himself, he has filed multiple lawsuits in this court that have proceeded to the summary judgment stage. He should be more than familiar with the court’s summary judgment procedure. Accordingly, even assuming that plaintiff’s affidavit contains the averment that he says it does and even assuming that such evidence would be sufficient to allow a reasonable jury to conclude that plaintiff was subjected to a serious risk to his health, I am not persuaded that I erred in granting defendants’ motion for

summary judgment.

ORDER

IT IS ORDERED that plaintiff Eugene Cherry's motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59 is DENIED.

Entered this 9th day of July, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge