IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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DAVID L. SHANKS, JR.,

OPINION AND ORDER

Plaintiff,

02-C-0064-C

v.

JON LITSCHER and
GERALD BERGE,

Defendants.

- -

This is a civil suit for injunctive and monetary relief brought by plaintiff Dennis L. Shanks, Jr., who contends that defendants Jon Litscher and Gerald Berge subjected him to unconstitutional conditions of confinement while he was incarcerated at the Wisconsin Secure Program Facility in Boscobel, Wisconsin. In his complaint, plaintiff alleged that the temperatures in his prison cell were either extremely high or extremely low, that he was kept in the cell 24 hours a day, that he was allowed to exercise only four hours a week and then only in an exercise cell that had no equipment and was exposed to outside temperatures, that both his cell and the exercise cell lacked windows and that his cell was illuminated at all times. Also, plaintiff alleged that systemic inadequacies in the dental services at the facility

amounted to deliberate indifference to serious dental needs. The case is before the court on defendants' motion for summary judgment.

In granting plaintiff leave to proceed in forma pauperis, I concluded that his allegations described conditions that were harsh and uncomfortable but did not violate the Eighth Amendment. However, I noted that it was necessary to consider the conditions as a whole because "[*s]ome* conditions of confinement may establish an Eighth Amendment violation 'in combination' when each would not do so alone, but only when they have a mutually enforcing effect that produces the deprivation of a single identifiable human need such as food, warmth or exercise – for example, a low cell temperature at night combined with a failure to issue blankets." Wilson v. Seiter, 501 U.S. 294, 304 (1991). At the time, I found plaintiff's allegations sufficient to suggest that he might have been subjected to a totality of conditions that violated "contemporary standards of decency." Caldwell v. Miller, 790 F.2d 589, 600 (7th Cir. 1986).

At this stage of the proceeding, plaintiff seems to have abandoned any claim he might have had that the social isolation and sensory deprivation of his confinement violated contemporary standards of decency and caused him mental and emotional suffering. Instead, he has focused on his claim of unconstitutionally cold cells and the inadequacy of his dental care. (He asserts in his brief that the court should not grant summary judgment to defendants on his social isolation, sensory deprivation and constant lighting claims, but

he does not support his assertion with any argument specific to his particular circumstances or any evidence of his own situation.)

I conclude that defendants' motion for summary judgment must be granted. Plaintiff has failed to adduce sufficient evidence to enable a jury to find that the conditions to which he was subjected violated contemporary standards of decency even when considered in combination or that the entire dental services system at the Wisconsin Secure Program Facility was so inadequate as to be unconstitutional.

From the facts proposed by the parties, I find that the following material facts are not in dispute.

UNDISPUTED FACTS

Plaintiff David L. Shanks, Jr. is an inmate who is incarcerated at the Wisconsin Resource Center. Defendant Jon E. Litscher is employed by the state of Wisconsin as Secretary of the Wisconsin Department of Corrections. Defendant Gerald Berge is Warden of the Wisconsin Secure Program Facility at Boscobel, Wisconsin. He has been employed in this position since September 27, 1998.

Defendant Litscher does not personally supervise the confinement of inmates at the Wisconsin Secure Program Facility; the staff of the facility is responsible for supervision. Litscher is generally aware that each cell in the facility has a continuous low level night light

and he is aware of the physical structure of the prison, although he was not involved personally in the design of the facility and is not involved in its daily operation or the implementation of security policies. He is not aware of the level of plaintiff's involvement with staff or other inmates at the facility or of the level of programming plaintiff received while he was confined there. Plaintiff sent inmate complaints to defendant Litscher in accordance with the inmate complaint review procedure but Litscher has appointed a designee to handle the complaints sent to him in accordance with the procedures of the Inmate Complaint Review System.

Defendant Berge is responsible for the overall administration and operation of the Wisconsin Secure Program Facility and for implementing all departmental policies and directives, as well as legislative and judicial mandates.

The Wisconsin Secure Program Facility is a maximum security correctional institution that houses inmates who are serving long periods of disciplinary segregation because they have demonstrated an unwillingness to comply with prison rules at other institutions. Many have committed violent acts against other inmates or prison staff or have been involved in gang activities or have histories of escape. The facility employs restrictive security measures.

Plaintiff came to the Wisconsin Secure Program Facility after breaking another inmate's jaw and attacking staff members that tried to remove him from his unit after the assault. After his transfer to the facility, he received two minor conduct reports.

Ordinarily, when inmates are administratively transferred to the Secure Program Facility, they work their way up through several security levels before they can leave the facility. Under this progressive system, inmates obtain greater privileges and more property in direct relation to demonstrated improvement in attitude and behavior. Failure to make such improvements can result in demotions for misbehavior, which results in fewer privileges and less property for the inmate.

As a general rule, inmates on Levels One, Two and Three have no physical access to each other, reducing their opportunities for intimidation, sexual victimization, extortion, passing of contraband, physical violence and the planning and implementation of gang activities or riots. The designers of the facility intended the lack of inmate access to help inmates make a fresh start toward better institutional adjustment. They did this by designing the facility to keep inmates away from gang and other adverse influences that had hampered their rehabilitation and treatment at other institutions. As inmates rise through the various levels, they are allowed to participate in group programming, group recreation and group meals. For security reasons, inmates in Levels One, Two and Three do not have any opportunities for participation in group activities.

Inmates at Levels One, Two and Three have limited access to programming staff, although Level Two inmates and above may begin educational programming. Inmates at all levels have limited telephone access. Level One inmates may have one 10-minute call each

month; Level Three inmates may have two 12-minute calls a month. Inmates at these levels have visitation only through remote video facilities. At higher levels, they may have face-to-face visits.

Plaintiff was in Level One from the date of his arrival at the facility until May 7, 2001; he was in Level Two from May 8, 2002 to August 8, 2001; he was in Level Three from August 9, 2001 to March 6, 2002; and he was demoted to Level Two on March 7, 2002 and stayed there until his transfer to the Wisconsin Resource Center on March 22, 2002.

Inmates at the Secure Program Facility have access to medical, mental health and religious staff, who make regular rounds to check on inmates and ask them whether they need services. Inmates may request services from social work staff. They may speak with staff members at their cell doors and they can communicate with one another through the ventilation system. On one occasion during his incarceration at the Secure Program Facility, plaintiff was caught "fishing," that is, passing contraband to another inmate by making a "hook" out of a small piece or metal, plastic or cardboard and attaching it to a line of string or thread and "casting" it under his door toward the cell door of another inmate.

Security staff come to each inmate's cell three times a day to pass out meals and once a week to pass out fresh clothing. Inmates may talk to security staff at these times and to health services staff when they pass out medications.

When inmates have a need for privacy or specialized treatment, staff will move them

to a private area for medical, dental, mental health and religious services.

All inmates at the Secure Program Facility may correspond with individuals outside the facility and may have face-to-face visits with their attorneys and with clergy. They do not have physical access to staff members, except when they are escorted under restraints by staff. All inmates have an intercom system in their cells together with an emergency call button.

Cells at the Secure Program Facility have a narrow rectangular window at the top of the back wall of the cell. The window allows daylight into the cell but an opaque covering prevents inmates from seeing particular features, such as clouds and the sun. The design of the windows is intended to prevent escape from the cell through a window.

The cell doors at the Secure Program Facility are solid metal, designed to prevent or minimize opportunities for inmates to grab or otherwise attack correctional officers, such as by spitting or throwing bodily fluids or human waste at them. The doors have built in traps to allow the officers to pass food, medication and other items to inmates, and a window that allows the inmate to see out and staff to see into the cell. Inmates can communicate with staff through the door.

Samuel A. Nelson works for the Department of Corrections as Superintendent of Buildings and Grounds 5 at the Secure Program Facility. In that position, he maintains weekly temperature check logs. His staff checks the temperatures in each room of the facility

at various times of day. These checks show that on a few occasions between September 5, 2001 and March 29, 2002, the air coming into the cell from the vent was 68 to 69 degrees but at no time did the average room temperature drop below 70 degrees. As a general rule, the bed and vent temperatures were in the mid-70 degree range during this period.

Prison security staff must be able to observe inmates at all times for reasons of security and inmate welfare. Staff must make certain that inmates are actually present in their cells, that they are not engaged in making weapons or trying to escape, that they are not harming themselves or their cells and that they are not in need of emergency medical or mental health care. Staff monitor inmates through the windows in the cell doors. In order to monitor inmates at night, staff must have an artificial light source and must be able to see some portion of each inmate's skin. Each cell has two kinds of lighting: general illumination, which the inmate can control with a switch inside the cell or staff can control from outside, and a nightlight that comes on automatically when the inmate turns off the general illumination. The inmate cannot control the nightlight. From 1999 until the end of 2001, the nightlight was a 7-watt, twin tube fluorescent light within a fixture mounted in the center of the ceiling of the cell. As the 7-watt bulbs have burned out, they have been replaced by 5-watt bulbs. The light fixture has two lenses. One is a 3/8 inch thick tempered glass lens; the other is a 1/4 inch thick acrylic prismatic lens that disperses the light and minimizes glare. The nightlight can be illuminated even in the event of a power outage by

using the Secure Program Facility's self-contained power generation capacity.

On May 3, 2001, Superintendent Nelson tested the illumination level in several representative cells during non-daylight hours, using the 7-watt nightlight as the sole source of illumination. He measured the distance from the bottom of the light fixture to the bed and found it was 103 inches. He then measured the illumination level at the point on the bed at which the inmate would usually lay his head. The levels showed foot candle readings varying between 1.6 and 2.1 and "lux" readings varying between 17.222 and 22.605. In tests on a 8 1/2 inch two-cell Mag flashlight of the type in common use at the facility, shining on the bed from the cell window eight feet away, Nelson measured an illumination level of 29 footcandles.

If the cells did not have nightlights, staff making cell checks could use a flashlight shined into the cell through the cell door window. Such a light might be more disruptive of sleep than the constant low level illumination provided by the nightlight and it would not provide the same degree of visibility within the cell. Alternatively, staff could perform their nighttime monitoring by turning on a light source inside the cell each time they did a cell check. Like the flashlights, this practice might be more disruptive than the nightlight.

Continuous lighting has the additional advantage of not providing a warning to inmates that they are being checked, making it harder for them to hide contraband. Also, because it is outside the control of staff as well as inmates, it cannot become a focus of

tension between inmates and staff.

Inmates in general confinement cells are allowed to cover their eyes while sleeping so long as some portion of skin remains visible to staff. Any inmate who complains of problems he believes result from the use of the nightlight may seek attention from the health services unit.

Plaintiff was admitted to the Dodge Correctional Institution on January 30, 2001, after having been found guilty of possession of cocaine with intent to distribute. His Intake/Transfer/Receiving Screening form, Medical History form and Physical Examination form show that he had some physical complaints that did not warrant any restrictions on his physical activity. He was not taking any psychotropic medication. On March 7, 2001, plaintiff was transferred from Dodge Correctional to Prairie du Chien Correctional Institution. Again, his intake forms contain no indication of mental or physical problems. He was not on psychotropic medication. He was transferred to the Secure Program Facility on April 6, 2001. His initial medical and mental health assessments did not show any significant physical or mental signs or symptoms.

Plaintiff had at least one independent evaluation in connection with the class action suit, Jones 'El v. Berge, 00-C-421-C (W.D. Wis.). The evaluator did not find that he suffered from a serious mental disorder, although he was taking psychotropic medications to help him sleep.

Plaintiff was transferred to the Wisconsin Resource Center for pre-release programming on March 22, 2002. The Initial Entrance Screening form shows that plaintiff's vital signs were normal; he complained of pain in his left toe; he had a left-sided "heart" complaint; and he asked for a special diet. The nurse noted a diagnosis of Dyssomina by history and added the comments, "attempt to cut wrist 1 year ago/was being sent to [Wisconsin Secure Program Facility]," "here for MR programming," and "has never heard voices/had hallucinations." ("Dyssomnia" is a term used for "primary disorders of initiating or maintaining sleep or of excessive sleepiness and are characterized by a disturbance in the amount, quality, or timing of sleep." Diagnostic and Statistical Manual of Mental Disorders, p. 598 (4th ed. 2000)).

On March 22, 2002, a Dr. Arong diagnosed plaintiff as "Axis I. [History] of dyssomnia. Axis II. defer, Axis III. [History] of Asthma, and Axis IV. Legal." Arong noted that plaintiff denied any psychiatric Sx [symptoms], denies mood disturbance." On April 25, 2002, plaintiff's Care Plan showed a diagnosis of "Axis 1. No diagnosis. II. Personality disorder Not Otherwise Specified and antisocial features. III. Denied contributory medical conditions. IV. Severe psychosocial stressors related to incarceration. And V. GAF [Global Assessment of Functioning] 55."

On April 24, 2002, plaintiff was prescribed benadryl 50 mgs. at night to promote sleep. Dr. Arong noted plaintiff's complaints of insomnia and also noted, "reviewed psych

Sx [symptoms]: no psychosis, no mood disturbance, no anxiety, denies suicidal ideation." On April 30, 2002, plaintiff was placed on depakote, a mood stabilizer, presumably to help him manage his anger. It was discontinued on May 6, 2002, by his own request. Arong noted "continuing anger outbursts, agitation and anxiety. Was temporarily treated with depakote but d/c'd [discontinued] at his request."

Plaintiff was given a diagnosis of Mood D/O NOS and the benadryl was increased to 75 mgs. On May 30, 2002, he was started on neurontin, another mood stabilizer. The dose was increased until plaintiff complained of headaches; after that it was decreased until the last order limits the neurontin to 300 mgs. a day. 300 mgs. a day is a marginally therapeutic dose.

Dr. Gary Maier is a state-licensed psychologist employed by the Wisconsin Department of Health and Family Services. He works at the Mendota Mental Health Institute, where his responsibilities include the assessment and treatment of mental disorders and diseases. He prescribes medications when necessary and evaluates patients to determine their competency to stand trial and their treatment needs if they are found incompetent or not guilty by reason of mental disease. Maier evaluated and treated plaintiff during plaintiff's incarceration at the Secure Program Facility. He saw plaintiff for the first time on May 29, 2001, because plaintiff had complained of difficulty sleeping. Dr. Maier found plaintiff competent to give informed consent to take psychotropic medication. He

prescribed trazodone, a common nighttime sedative, and gave plaintiff a diagnosis of dyssomnia. On June 5, 2001, at a follow-up visit, plaintiff complained of stomach cramps, which are a possible side effect of trazodone. After discussion, Dr. Maier changed the sedative to amitriptyline. Also, Maier suggested ways that plaintiff might cope with the bright lights in his cell.

On June 19, 2001, Maier saw plaintiff to assess the effectiveness of the amitriptyline. Plaintiff reported that he thought it gave him headaches but he was willing to endure the side effects in favor of the benefits and agreed to an increase in dosage to 200 mgs. However, in July, plaintiff found the side effects unbearable. Maier switched the prescription to benadryl. When the benadryl proved ineffective, plaintiff asked for 300 mgs. of amitriptyline. He remained on this dose until March 5, 2002, when Maier discontinued the medication because plaintiff refused to allow Maier to assess him in a confidential area (the lawyers' room). This was the third time plaintiff had failed to honor Maier's request to examine him.

Plaintiff was compliant with the medication until it was discontinued. There is nothing in the record to indicate that he complained about the decision to discontinue the amitryptyline or that his sleep deteriorated after it was discontinued.

At no time after Maier's second interview with plaintiff did plaintiff raise the issue of lighting or complain about other conditions of confinement. Plaintiff's main complaint

was difficulty with sleeping. On July 31, August 28 and December 26, 2001, Maier noted in his progress reports that plaintiff did not exhibit any evidence of thought disorder, mood instability or concern about "disorders of perception," by which he meant auditory or visual hallucinations and hearing or seeing things that others do not hear or see. However, in a note written January 29, 2002, Maier stated, "I was somewhat surprised because on 1-10-02 he [plaintiff] wrote me a request saying, 'I am hearing voices and the floor wont [sic] stop moving.'" Maier thought that the statements could indicate auditory and visual hallucinations. Maier scheduled an appointment with plaintiff, but plaintiff refused to see him. Maier found this surprising; ordinarily, when an inmate develops psychotic-like symptoms, he wants to see a doctor as soon as possible. Plaintiff's refusal to see Maier made Maier question the veracity of plaintiff's report.

Plaintiff continued to take the amitriptyline to help him sleep so Maier made another appointment with him for two weeks later. Again, plaintiff failed to honor the appointment. When he refused a third appointment, Maier discontinued the amitriptyline. Sometime afterward, plaintiff was transferred to the Wisconsin Resource Center. Maier did not see him again.

It is Maier's opinion that plaintiff did not suffer significant psychological symptoms as a result of the conditions of confinement at the Secure Program Facility.

Dr. Barbara A. Ripani is employed as Dental Director of the State of Wisconsin,

Department of Corrections, Bureau of Health Services. She has held this position since 1997. She has a license to practice dentistry in the state of Wisconsin. As Dental Director, Ripani has responsibility for the overall function of dental units in thirteen correctional institutions, supervision of 50 dental personnel and 19 dentists, program development, policy and procedures, education and budget oversight.

Ripani is familiar with plaintiff's claims in this case from her review of his complaint and other inmate complaints about dental care. Plaintiff's dental care began in March 2001 and was completed in December 2001. During that time, plaintiff had four appointments, at which he had seven fillings for minor dental caries, two extractions of nonpathological wisdom teeth and a cleaning. (Ordinarily, inmates have to be in the state correctional system at least one year before they are eligible for a cleaning.) Plaintiff submitted a dental service request on May 1, 2001 and was treated on September 6, 2001. His four-month wait for a routine dental appointments was about the same wait a patient would experience with a private dentist. Ripani's opinion is that plaintiff's dental needs were all routine rather than urgent.

In connection with his dental care, plaintiff was prescribed Ibuprofen on four occasions in September and October 2001. Each prescription was for multiple days. On September 24, 2001, plaintiff received a prescription for hydrocodone 500 mgs. for three days, following the extraction of his wisdom teeth. On November 6, 2001, he received a

prescription for vicodin for five days.

On February 20, 2002, plaintiff filed a request for another teeth cleaning and noted that he was having pain. At the time he had only a spot of decay on one tooth that needed an occlusal filling.

OPINION

A. Conditions of Confinement

The State of Wisconsin designed the Secure Program Facility to isolate dangerous and recalcitrant inmates of the state's correctional system. They intended to withhold from the inmates almost all forms of property, social contact, entertainment, education and recreation, in the belief that such isolation and deprivations would not only protect other inmates but would motivate the isolated inmates to conform their behavior to prison rules and regulations. The facility operates a "level" system, in which all inmates start out in Level One they have the opportunity to progress through higher levels at which they obtain greater privileges and more personal property if they demonstrate improvements in their attitude and behavior. A failure to demonstrate improvement can cause an inmate to remain in a low level or to be demoted.

The Secure Program Facility has been a subject of controversy since it was first proposed. Many thoughtful critics question the premise on which it rests, which is that

extreme isolation will prove motivational to inmates rather than so detrimental to their psychological health as to put them at risk for serious emotional and mental harm. They question, too, whether an inmate housed in such a facility will be a greater danger to society when he is released than he would be if he had been housed in less draconian conditions.

As important as these questions are, they are not questions for this court or any other to resolve. It is up to the governor and the legislature to decide whether the Secure Program Facility promotes safety and justifies the costs of its operation. Courts reviewing such programs and facilities have no authority to review the wisdom of the original decisions that led to the building of a particular facility or the development of its programming. Their authority is limited to determining whether the conditions and operations comply with the applicable provisions of the United States Constitution, in this case, the Eighth Amendment, which prohibits the infliction of cruel and unusual punishments.

The courts' authority is not hollow. It is true that "[t]he Constitution 'does not mandate comfortable prisons,' Rhodes v. Chapman, 452 U.S. 337, 349 (1981), but neither does it permit inhumane ones, and it is now settled that 'the treatment a prisoner receives in prison and the conditions under which he is confined are subject to scrutiny under the Eighth Amendment,' Helling [v. McKinney, 509 U.S. 25 (1993)]." Farmer v. Brennan, 511 U.S. 825, 832 (1994). "Inhumane conditions" are those that exceed the "contemporary bounds of decency of a mature, civilized society." Lunsford v. Bennett, 17 F.3d 1574, 1579

(7th Cir. 1994). Deprivations must be "unquestioned and serious" and contrary to "the minimal civilized measure of life's necessities." Rhodes 452 U.S. at 347.

To hold prison officials liable for inhuman conditions, an inmate plaintiff must show not only that the conditions are unconstitutional but that the defendant prison officials "acted wantonly and with a sufficiently culpable state of mind." Lunsford, 17 F.3d at 1579. That state of mind is one of "'deliberate indifference' to inmate health or safety." Farmer, 511 U.S. at 834. To prove deliberate indifference, a plaintiff must show that the defendant official knew of an excessive risk to inmate health or safety and disregarded that risk. Id. at 837. He or she "must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." Id.

Thus, in this case, plaintiff's task is to show first that the conditions at the Secure Program Facility were unconstitutional because of the combined effect of the lack of sensory stimulation and social contact, the cell temperature fluctuations, the constant illumination of the cells, the restricted opportunities to exercise, the absence of any exercise equipment and the lack of any windows in either the regular cells or the exercise cell. Second, he must show not only that defendants Litscher and Berge knew of these conditions but knew that they posed a serious risk of mental and emotional harm to inmates exposed to them for long periods of time and, despite the known risk, chose to do nothing about them.

In opposing defendant's motion for summary judgment, plaintiff has focused on his

claims of inadequate dental services and cold cell temperatures. He has not produced any evidence to support a claim that defendants subjected him to social isolation and sensory deprivation or made any arguments in support of this claim. He has not put into dispute defendant's proposed facts that he was not affected adversely by his confinement at the Secure Program Facility and that he had opportunities for social interaction, albeit of a limited nature. He does not contend that limitations on his contact with the outside world caused him any injury and he has not provided any evidence that might have backed up such a contention.

In contrast to plaintiff's lack of evidence, defendants' evidence tends to show that plaintiff did not suffer any mental or emotional harm from his isolated confinement. The record contains only one possible indiction that plaintiff had been affected: Dr. Maier's note that plaintiff had written him on January 29, 2002, to say that he was hearing voices and the floor would not stop moving. However, any possible weight the note might have is undermined by plaintiff's refusal to see Maier to explain what he meant and by his later denial on March 22, 2002 of having ever heard voices. Moreover, plaintiff has not submitted any evidence that could link one instance of hearing voices and dizziness with the conditions of which he complains. To prove the existence of such a link, plaintiff would have to have the testimony of an expert in mental health. It is not something about which laypersons are knowledgeable.

In the order granting plaintiff leave to proceed, I held that the conditions of his confinement were harsh but that they did not rise to the level of constitutional violations, when considered separately. That holding is borne out by the undisputed facts. Plaintiff has no evidence to put into dispute defendants' showing that winter cell temperatures were generally in the 70 degree range. Any claims he might have about cell illumination fall away because he cannot show that he suffered any harm. Moreover, even if he could show that he had suffered from sleeplessness or headaches and had been denied treatment for these conditions, he cannot show that the adverse effects of the constant light outweigh the state's need to see inside the cells at all times to protect the safety and welfare of staff and inmates or that the state could meet that need in a less intrusive manner. See Bruscino v. Carlson, 854 F.2d 162, 165 (7th Cir. 1988) ("If order could be maintained in [United States Penitentiary in Marion, Illinois] without resort to the harsh methods attacked in this lawsuit, the plaintiffs would have a stronger argument that the methods were indeed cruel and unusual punishments.")

B. Dental Care

In the order granting plaintiff leave to proceed in forma pauperis, I concluded that plaintiff had failed to state a claim that defendants were deliberately indifferent to his serious dental needs because his own allegations showed that he received the treatment he needed,

despite having to wait longer than he wanted for the treatment to begin. However, I allowed plaintiff to proceed on his claim that the entire dental system at the Secure Program Facility was inadequate. He had alleged that the dental services were understaffed, that there was no dentist at the facility for some period of time and that the dentist did not have time to treat all of his dental needs at one time. Later, when defendants moved to dismiss plaintiff's systemic dental health care claim for lack of standing, I reconsidered plaintiff's individual claim of denial of dental care and in an order dated June 19, 2002, amended my earlier order to allow plaintiff to proceed on his individual claim as well as the claim of systemic inadequacies.

As the undisputed facts disclose, plaintiff has not been able to support his claims of systemic inadequacies and specific lack of treatment for his own specific needs. He has proposed no facts that show that inmates at the facility were forced to wait inordinate amounts of time for dental services. He did not show that the dentists refuse to do more than a few procedures at one time simply because there are not enough dentists rather than because it is good dental practice not to combine too many invasive procedures in one visit. He did not produce any evidence to show that inmates are suffering unnecessary pain as a result of the system's deficiencies. To the contrary, the undisputed facts show that defendants provided plaintiff with relatively prompt treatment for his wisdom teeth and caries. His waiting time did not exceed the ordinary waiting period for seeing a dentist in

private practice. He had no dental needs that were of an emergency nature. Although he alleged in his complaint that he received pain medication on only two occasions, the undisputed facts show that he received it on a number of occasions for extended periods of time. All that plaintiff can produce in his own behalf is his own opinion that he was not given adequate dental care. This is not good enough. See Walker v. Shansky, 28 F.3d 666, 672 (7th Cir. 1994) (inmate's self-serving conclusions about his mental health insufficient to raise a disputed issue of fact on subject; no evidence that inmate is qualified to testify about his medical condition).

I conclude that as to both plaintiff's individual and systemic deficiency claims, defendants' motion for summary judgment must be granted because plaintiff has failed to show a genuine issue of fact on his claims that defendants violated the Constitution's prohibition against cruel and unusual punishment. No reasonable jury could find in plaintiff's favor on these claims.

ORDER

IT IS ORDERED that the motion of defendant's Jon Litscher and Gerald Berge for summary judgment is GRANTED. The clerk of court is directed to enter judgment

for defendants and close this case.

Entered this 29th day of January, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge