

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

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TROY S. BURTON,

Plaintiff,

v.

MATTHEW FRANKS and  
JEFFREY P. ENDICOTT,

Defendants.

ORDER

03-C-374-C

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The parties in this case each filed a motion for summary judgment. The court gave plaintiff until March 24, 2004, in which to file a reply with respect to his own motion for summary judgment, and until April 1, 2004, in which to respond to defendants' motion. Plaintiff did not reply to defendants' response to his motion for summary judgment, but he did oppose defendants' motion on April 1, 2004, by submitting a brief and a response to defendants' proposed findings of fact. Now plaintiff has submitted a letter postmarked April 3, 2004, which I construe as a motion for modification of the briefing schedule on defendants' motion. In particular, plaintiff states that he will be released from prison on April 20, 2004, and notes that if he is granted permission to withdraw his response to

defendants' proposed findings of fact and submit a new response 30 days following his release, he will "have access to necessary materials which are currently prohibited by the defendants." Plaintiff's motion will be denied.

The question to be decided on the cross motions for summary judgment is whether it is a violation of plaintiff's rights under the First Amendment to prohibit him from possessing a Satantic bible while he is incarcerated. Defendants have proposed as fact numerous passages from the Satanic Bible, as well as the opinion of Thomas LaLiberte, an Administrative Captain, Disruptive Group Gang Coordinator and DOC Disruptive Group Agency Trainer, who has received educational training on the teachings of Satanism and the Satanic Bible and their potential influence on prisoners held in a penal setting. In his response to defendants' motion, plaintiff does not deny that the passages quoted from the Bible are accurate. Rather, he appears to argue that the passages are subject to different interpretations by different individuals. That defendants may have omitted describing passages in the Satanic Bible that do not promote hatred, revenge, self-indulgence and the like is of no consequence. In considering whether defendants' denial of a Satanic Bible to plaintiff violates his First Amendment rights, the court must determine whether a valid, rational connection exists between the denial and a legitimate government interest, such as security of the institution. If this court agrees with defendants that the passages quoted encourage behavior and beliefs that threaten prison security, then it will make no difference

whether there are additional passages in the Satanic Bible that are benign. Therefore, no purpose other than unnecessary delay would be served by allowing plaintiff a second chance to oppose defendants' motion after he is released.

Accordingly, IT IS ORDERED that plaintiff's motion for modification of the schedule for briefing defendants' motion for summary is DENIED.

Entered this 13th day of April, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge