

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

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JONATHAN P. COLE,

Plaintiff,

v.

JON E. LITSCHER;  
MICHAEL CATALANO;  
PRISON HEALTH SERVICES, INC.;  
PAM BARTELS;  
JOHN W. KUSSMAUL; D. ESSER;  
FUERSTENBURG; JANTZEN;  
TIM F. HAINES; SHIRLEY OLSON;  
KERRY MELBY; BECKY MANNING;  
and GERALD A. BERGE,

Defendants.

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ORDER

04-C-116-C

Plaintiff Cole has filed a “Motion for Court Order” dated August 8, 2004. In this motion, plaintiff states that he needs a “court order requiring [him] to forward specific materials to the court” so that he can prove to prison officials that “extraordinary circumstances” exist. In particular, plaintiff states that he needs an order directing him to file an appeal of Judge Crocker’s order of July 30, 2004 granting defendants’ motion for a protective order, a reply to defendants’ response to his motion to compel discovery dated

August 4, 2004, and a response to the partial motion to dismiss filed by defendants Litscher, Kussmaul, Esser, Jantzen, Fuerstenberg, Berge and Haines. It appears that plaintiff is attempting to convince prison officials that extraordinary circumstances exist warranting an extension of legal loan privileges beyond the limits established in Wis. Admin. Code § DOC 309.51. The motion will be denied.

Plaintiff alleges that he has shown prison officials the magistrate judge's preliminary pretrial conference order establishing a discovery deadline and the magistrate judge's order of July 30, 2004, granting a protective order and giving plaintiff permission to serve twelve additional requests for admission and six additional requests for production of documents. He claims that prison officials have rejected these orders as failing to show extraordinary circumstances requiring plaintiff to file the documents he has identified above.

Whether plaintiff can or cannot convince prison officials to find extraordinary circumstances warranting an extension of the statutory legal loan limit is not a matter in which this court will interfere. In Lindell v. McCallum, 352 F.3d 1107, 1111 (7th Cir. 2003), the Court of Appeals for the Seventh Circuit held that the district courts in Wisconsin are under no obligation to order the state of Wisconsin to lend prisoners more money or paper than they are authorized to receive under Wis. Adm. Code § DOC 309.51. In reaching this conclusion, the court of appeals stated,

The Wisconsin statute is not intended for the funding of prisoners' suits--as

explained in the Luedtke [v. Bertrand, 32 F.Supp.2d 1074, 1076 (E.D. Wis.1999)] case, the loans authorized by the statute are not "funds which are disbursed or credited to an inmate's account to be used as he wishes" but rather "simultaneous credits and debits ... for the sole purpose of enabling prisoners to purchase 'paper, photocopy work, or postage' on credit." And Lindell has "no constitutional entitlement to subsidy," Lewis v. Sullivan, 279 F.3d 526, 528 (7th Cir.2002), to prosecute a civil suit; like any other civil litigant, he must decide which of his legal actions is important enough to fund. Lucien v. DeTella, 141 F.3d 773, 774 (7th Cir.1998). If he is able to convince Wisconsin to extend him more credit for his legal endeavors, in apparent violation of Wisconsin law, any debt arising from that extension of credit will be a matter strictly between him and Wisconsin, and not any business of the federal courts.

Id.

Plaintiff Cole is in a position no different from a person who is not incarcerated and who has limited funds with which to file lawsuits in federal court; if the limitations on his funds prevent him from prosecuting his case with the full vigor he wishes to prosecute it, he may choose to scale back his filings, abandon some of his claims in an effort to distill the issues and reduce litigation expenses or voluntarily dismiss the case.

ORDER

IT IS ORDERED that plaintiff's "motion for court order" is DENIED.

Entered this 18th day of August, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge