

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

AUSTIN C. SZYMANKIEWICZ,

Plaintiff,

v.

DENICE DOYING,

Defendant.

ORDER

04-C-186-C

This case is presently scheduled for trial on April 25, 2005 on the only claim remaining in the lawsuit, that defendant Doying retaliated against plaintiff for exercising his constitutional right to file an inmate complaint when she searched his cell on July 18, 2003. Now defendant has filed a motion for permission to take defendant Doying's testimony by video deposition in advance of trial because she has plans to be out of state from April 23 through April 29, 2005 on vacation with her husband and children. Because plaintiff's ability to succeed on the merits of his claim will rest largely on the jury's ability to assess the credibility of the parties during their testimony at trial, I am not inclined to grant defendant's request. Instead, I will move the trial to the week of May 2, 2005. If this time is equally unworkable for the parties, they are to notify the court promptly so that a new

trial date may be set.

Entered this 29th day of March, 2005.

BY THE COURT:

BARBARA B. CRABB
District Judge