

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

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GEORGIA ERICKSON,

Plaintiff,

v.

WISCONSIN DEPARTMENT  
OF CORRECTIONS,

Defendant.

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ORDER

04-C-0265-C

Defendant Wisconsin Department of Corrections has moved pursuant to 28 U.S.C. § 1292(b) for a certification of this case for an immediate appeal and for a stay of proceedings pending the outcome of the appeal. The motion will be denied.

In enacting section 1292, Congress authorized district courts to certify certain orders that would not be appealable otherwise as deserving of interlocutory appeal if they involved a “controlling question of law as to which there is substantial ground for difference of opinion” *and* an immediate appeal from the order would materially advance the ultimate termination of the litigation. Defendant’s motion satisfies the first of these criteria; it does not satisfy the second.

This case has been set for trial during the week of March 14. The parties should be essentially ready for trial; postponing it would not achieve any great savings of time or money. Indeed, the case could be completed before the parties could finish briefing an appeal of the questions defendant wishes certified. With the trial completed, the court of appeals would have the full picture of the case and a much more complete record upon which to decide whether this court erred in analyzing the scope of Title VII liability in a prison setting.

ORDER

IT IS ORDERED that defendant Wisconsin Department of Corrections' motion for certification of controlling questions of law pursuant to 28 U.S.C. § 1292(b) and for a stay of proceedings pending the outcome of the appeal is DENIED.

Entered this 2nd day of March, 2005.

BY THE COURT:

BARBARA B. CRABB  
District Judge