

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

WILLIE C. SIMPSON,

Plaintiff,

v.

JANEL NICKEL, TIMOTHY DOUMA,
PHILIP KINGSTON, WILLIAM
NOLAND, MATTHEW J. FRANK,

Defendants.

ORDER

05-C-232-C

In October 2005, this court ruled sua sponte that plaintiff could not proceed further with his complaint that defendants had retaliated against him for exercising his First Amendment right to free speech unless he could demonstrate that the speech at issue was protected. In the decision, I reasoned that because a prison disciplinary committee had found that plaintiff's speech was a lie (lies are not protected by the First Amendment), plaintiff could proceed further only if he could show that the disciplinary committee's finding of guilt had been overturned or vacated in a state court certiorari proceeding. When plaintiff did not make the showing, I dismissed his case on November 23, 2005. On appeal, the Court of Appeals for the Seventh Circuit disagreed with this court's action. It has

remanded the case to this court for further proceedings.

Immediately before I dismissed this case on the court's own motion, defendants moved for summary judgment. That motion has not yet been briefed. Therefore, I am requesting the clerk of court to schedule a status conference before United States Magistrate Judge Stephen Crocker at which a briefing schedule on the motion for summary judgment can be established, a new trial date can be set and deadlines may be scheduled for completing discovery and disclosing witnesses.

ORDER

IT IS ORDERED that this case is proceeding on plaintiff's claim that defendants retaliated against him for exercising his First Amendment right to grieve the alleged actions of prison officials by issuing him conduct report #1485471 and upholding the disciplinary committee's finding that plaintiff was guilty of lying about staff. The clerk of court is requested to set this case on for a scheduling conference before United States Magistrate

Judge Stephen Crocker as promptly as possible.

Entered this 12th day of July, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge