

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

GLENN M. DAVIS,

Plaintiff,

MEMORANDUM

v.

05-C-374-C

CATHERINE J. FERRY,
Warden of New Lisbon Corr. Inst.,

Defendant.

This is a civil action brought pursuant to 42 U.S.C. § 1983. Plaintiff has been allowed to proceed on one claim: that for eight months beginning in December 2004, prison officials in the mail room at the New Lisbon Correctional Institution opened seven pieces of his legal mail, all of which were clearly labeled as legal mail. Presently, the parties are briefing defendant's motion to dismiss this case for plaintiff's failure to exhaust his administrative remedies.

Now plaintiff has filed a 10-page communication containing information entirely unrelated to his mail opening claim. In particular, plaintiff appears to be seeking federal court review of the legal validity of his state court conviction for third-degree sexual assault. This is a matter that is not cognizable in a civil action under § 1983. Federal courts may

consider the validity of state court convictions only in a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2254 and only after the plaintiff has exhausted his state court remedies. Because plaintiff's recent submission cannot be considered in the context of this case, I am returning it to him. For record purposes only, I have made a copy of the submission and will retain it in plaintiff's file.

Entered this 17th day of November, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge