

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

ROBERT B. CIARPAGLINI,

Plaintiff,

v.

ORDER

STEPHEN HOWARD, M.D.,
KEVIN KALLAS, M.D. and
SANDY HAUTIMAKI,

05-C-720-S

Defendants.

Upon payment of plaintiff's initial partial filing fee the Court addresses the merit of plaintiff's complaint. According to 28 U.S.C. § 1915(b)(2), the institution's financial officer is authorized to deduct monthly payments from plaintiff's account until the \$250.00 filing fee is paid in full.

Plaintiff alleges that he is incarcerated at the Dodge Correctional Institution, Waupun, Wisconsin. He alleges that his panic attacks are being treated by ineffective medications. In his complaint he does not allege when the defendants' actions occurred.

The Court recently decided a similar claim pursued by plaintiff in Ciarpaglini v. Kallas, et al., 05-C-412-S. In that case the Court found that the defendants were not deliberately indifferent to plaintiff's panic attacks.

It may be that in this complaint plaintiff is referring to different conduct but he has not made that clear. He has not,

however, alleged facts in his new complaint that support an Eighth Amendment deliberate indifference claim because he is alleging only that he disagrees with the medical treatment that he is receiving. Estelle v. Gamble, 429 U.S. 97 (1976). Accordingly, plaintiff's complaint will be dismissed without prejudice for failure to state a claim. Plaintiff's motion to amend his complaint will be denied as moot.

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED plaintiff's complaint and all claims contained therein is DISMISSED without prejudice for failure to state a claim

IT IS FURTHER ORDERED that plaintiff's motion to amend his complaint is DENIED as moot.

Entered this 6th day of January, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge