

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

DWAYNE ALMOND,

ORDER

Petitioner,

v.

06-C-447-C

STATE OF WISCONSIN; GREGORY GRAMS;
MATHEW FRANK; MS. JANEL NICKEL;
CAPT. SEAN SALTER, Unit Clerk;
MR. MIKE VANDERBROOK, Clinical;
MS. DR. JANET WALSH, Clinical Service;
MR. LT. SCHOENEGER; MR. LT. STRUPP;
and MR. CO II WECH,

Respondents.

In an order dated August 23, 2006, I denied petitioner leave to proceed on his claim that respondents violated his Eighth Amendment rights by serving him a moldy piece of toast on the morning of December 15, 2005. Now before the court is petitioner's motion for reconsideration in which he takes issue with the court's assertion in the August 23 order that he did not eat the toast or suffer any adverse effects from it.

In his motion, petitioner alleges that he "ate or eaten half of both piece [sic] of the moldy toast bread," dkt. #5, at 1, and that he had diarrhea the following day. Such

allegations are still insufficient to permit the inference that petitioner's Eighth Amendment rights were violated. An inmate alleging that the conditions of his confinement violated the Eighth Amendment must show ultimately that the conditions to which he was subjected were objectively serious. That is, it must be possible for him to develop facts from which it might be inferred that he was deprived of "basic human needs" or "the minimal civilized measure of life's necessities." Antonelli v. Sheahan, 81 F.3d 1422, 1427 (7th Cir. 1996) (quoting Rhodes v. Chapman, 452 U.S. 337, 347 (1981)). Petitioner's allegation that he consumed a portion of a piece of moldy bread on a single occasion falls below that exacting standard.

ORDER

IT IS ORDERED that petitioner Dwayne Almond's motion for reconsideration of the court's August 23, 2006 order is DENIED.

Entered this 7th day of September, 2006.

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