

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

CHRISTOPHER GOODVINE,

Petitioner,

v.

ORDER

GREG GRAMS, JANEL NICKEL, CAPTAIN
JOHNSON, CAPT. S. SALTER, CAPT.
TRATTLES, LIEUTENANT KELLER, LT.
SCHOENBERG, MATTHEW J. FRANK, BURT
TAMMINGA, MS. SITZMAN, LT. STRUPP,
MS. HAHNISCH, MS. WARD, MS. MUCHOW,
T. BITTELMAN, MR. TRIMBLE, MR. DELONG,
CYNTHIA THORPE and DR. SULIENE,

06-C-491-S

Respondents.

Petitioner requests leave to proceed in forma pauperis.
Attached to his affidavit of indigency is a proposed complaint.

Pursuant to 28 U.S.C. § 1915(b)(1), as amended by the Prison
Litigation Reform Act, effective April 26, 1996, a prisoner
bringing a civil action shall be required to pay the full amount of
the \$350.00. The Court shall collect an initial partial filing fee
of 20% of the greater of the average monthly deposits in the
prisoner's account or the average monthly balance in the prisoner's
account for the six month period immediately preceding the filing
of the complaint.

According to the information that petitioner submitted, he had
no income in the six month time period immediately preceding the

filing of the complaint. Petitioner does not have the means to pay an initial partial filing fee.

The Court addresses the merits of petitioner's complaint. Petitioner alleges that while he was incarcerated at the Columbia Correctional Institution on January 9, 2006 respondent Bittleman placed him in a control segregation cell which had an inoperable toilet for thirty hours without water, adequate clothing or a clean mattress. He alleges that respondents Grams, Trattles, Keller, Johnson, Strupp and Schoenberg knew of these conditions and did not correct them or move petitioner. It is possible that petitioner may be able to prove a set of facts that support a claim that these respondents violated his Eighth Amendment right to be free from cruel and unusual punishment. He will be allowed to proceed on this claim.

Petitioner further alleges that he was placed in Cell #27 on January 15, 2006 and that this cell contained pepper spray residue. He alleges that respondents Johnson, Grams, Salter, Tamminga, Sitzman, Thorpe and Frank were responsible for this continued placement which exacerbated his asthma. It is possible that petitioner may be able to prove a set of facts that would support an Eighth Amendment claim against these respondents. He will be allowed to proceed on this claim.

Petitioner alleges that respondents Sitzman, Hahnisch, Muchow, Ward and Suliene denied him medical treatment for his asthma which

made his condition worse. Petitioner may be able to prove a set of facts that support a claim that these respondents were deliberately indifferent to his serious medical need in violation of the Eighth Amendment. He will be allowed to proceed on this claim.

Petitioner also alleges that respondents Nickel, Salter and Bittleman transferred him to Waupun Correctional Institution on February 23, 2006 in retaliation for his filing administrative grievances. It is possible that petitioner could prove a set of facts that would support a First Amendment retaliation claim against these respondents. He will be allowed to proceed on this claim.

ORDER

IT IS ORDERED that petitioner's request to proceed in forma pauperis is GRANTED.

IT IS FURTHER ORDERED that petitioner will be allowed to proceed on his Eighth Amendment claims against defendants Bittelman, Grams, Trattles, Keller, Johnson, Strupp, Schoenberg, Salter, Tamminga, Sitzman, Thorpe, Frank, Hahnisch, Muchow, Ward and Suliene and on his First Amendment claim against respondents Nickel, Salter and Bittleman.

IT IS FURTHER ORDERED that the remaining claims and respondents are DISMISSED.

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The summons and complaint are being delivered to the United States Marshal for service on respondents Greg Grams, Janel Nickel, Captain Johnson, Capt. S. Salter, Capt. Trattles, Lieutenant Keller, Lt. Schoenberg, Burt Tamminga, Ms. Sitzman, Lt. Strupp, Ms. Hahnisch, Ms. Ward, Ms. Muchow, T. Bittelman and Dr. Suliene at Columbia Correctional Institution, Portage, Wisconsin and on Cynthia Thorpe and Matthew Frank, Department of Corrections, Madison, Wisconsin.

Entered this 6th day of September, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge