

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

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ANTHONY CORDOVA,

Plaintiff,

v.

ORDER

07-C-172-C

GREGORY GRAMS, Warden, RICK
RAEMISCH, Office of the Secretary,
JANEL NICKEL, Security Director,
JANET WALSH, Psychologist DS 1,
DS1 first shift sergeant, RICKY PLATH,
Bldgs and Grounds Supervisor, CAPTAIN
DYLON RADTKE, Administrative Cpt.,
DOCTOR SULIENE, physician, DR.
JENS, Psychiatrist, DR. DANA
DIEDRICH, Psychiatrist and OFFICER
MCCLIMANS, Corrections Officer,

Defendants.

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In an order dated April 8, 2007, I granted plaintiff Anthony Cordova leave to proceed in forma pauperis on his claims that his Eighth Amendment rights were violated when defendant Dr. Sulienne exhibited deliberate indifference to his need for treatment of his back pain; defendants Janet Walsh, Dr. Jens and Dana Diedrich exhibited deliberate indifference to his need for mental health treatment; defendants Gregory Grams and Ricky

Plath refused to repair the poorly-sealed windows in his cell, causing his cell to become excessively cold; and defendants Dylon Radtke, Nickel, Grams and Frank violated his Eighth Amendment rights by enforcing prison policies that required food to be delivered through filthy traps in the bottom of cell doors. In addition, I stayed a decision on whether to permit plaintiff to proceed on his claim that defendant McClimans used excessive force against him, causing injury to his neck and back.¹

Now before the court is plaintiff's supplement to his complaint, in which he has alleged additional facts regarding his claim against defendant McClimans. In his original complaint, petitioner alleged only that defendant McClimans had "bashed him." Petitioner did not provide a date or any context for his allegations. In his supplement, petitioner alleges:

On May 8, 2004, while being escorted back to my cell by officer McClimans and officer Sherman, officer McClimans told me to face straight forward and not to look to the sides. I ignored his remarks, because noone has ever told me to do this (look straight forward) since I [have] been here, and I have been here since 12-15-99. After we pas[sed] the sergeant station, I felt officer McCliman's hand tighten on my arm, he then put his other hand on my back and turned me to face the wall, he then slammed me into the wall. I turned

¹In the April 18 screening order, although I granted plaintiff leave to proceed against defendants Radtke and Nickel and stayed a decision on his claim against defendant McClimans, I inadvertently dismissed those defendants from the lawsuit. The dismissal was an error; plaintiff's claims against all three defendants remain in effect. Therefore, defendants Radtke, Nickel and McClimans have been added to the caption of the lawsuit and will be reinstated as defendants to this action.

my body just in time to [a]bsorb the impact on my shoulder (left shoulder) otherwise, I would have a broken nose, and missing teeth. . . .

If believed, the facts plaintiff has alleged are sufficient to support his claim that defendant McClimans used more force than was necessary against petitioner on May 8, 2004, in violation of the Eighth Amendment. Consequently, I will grant plaintiff leave to proceed on his claim against defendant McClimans.

ORDER

IT IS ORDERED that

1. Plaintiff Anthony Cordova is GRANTED leave to proceed in forma pauperis on his claim that defendant McClimans used excessive force against him on May 8, 2004.

2. Dylan Radtke, Janel Nickel and Officer McClimans are REINSTATED as defendants to this lawsuit.

3. Pursuant to an informal service agreement between the Attorney General and this court, copies of plaintiff's complaint and supplement and this order are being sent today to the Attorney General for service on defendants Radtke, Nickel and McClimans. A courtesy copy of plaintiff's supplement is being sent to Assistant Attorney General Corey Finkelmeyer

on behalf of the defendants who have been served already in this lawsuit.

Entered this 30th day of April, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge