

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

- - - - -

LUIS A. RAMIREZ,

Plaintiff,

v.

CURTIS DELONG, MARK ISAACSON
and VICTOR TRIMBLE,

Defendants.

- - - - -

ORDER

09-cv-314-bbc

Plaintiff Luis Ramirez is proceeding on a claim that defendants Curtis Delong, Mark Isaacson and Victor Tremble violated his Eighth Amendment rights by disregarding symptoms he suffered as a result of methadone withdrawal. Trial is scheduled for August 23, 2010.

Defendants have filed a motion to dismiss the case as a sanction for plaintiff's alleged creation of fraudulent documents. Dkt. #143. In particular, defendants say that, during his deposition on July 22, 2010, plaintiff presented counsel for defendants with a journal that he intends to use as evidence at trial to corroborate his version of events and to refresh his recollection. Although plaintiff claims to have written the journal in 2007, defendants

believe that defendant did not create the journal until 2010. Defendants' proof is that several pages of the journal include dates from 2010 immediately after dates from 2007.

Defendants' motion will be denied because the issue they raise is one for the jury to resolve. If defendants believe they have caught plaintiff in a lie, they are free to impeach him with the evidence they have while he is testifying at trial.

ORDER

IT IS ORDERED that the motion to dismiss filed by defendants Curtis Delong, Mark Isaacson and Victor Tremble, dkt. #144, is DENIED.

Entered this 30th day of July, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge