

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

LARRY J. BROWN,

Plaintiff,

v.

BELINDA SCHRUBBE, PAUL SUMNICHT and
CYNTHIA THORPE,

Defendants.

ORDER

10-cv-129-bbc

Plaintiff Larry J. Brown has been allowed to proceed on his claims that: defendants Belinda Schrubbe and Paul Sumnicht determined that he no longer needed his various comfort items or physical therapy; Sumnicht denied plaintiff further neurologist appointments and withheld his x-ray results; and defendant Thorpe affirmed dismissal of plaintiff's grievance concerning the removal of his extra mattress. Now before the court are plaintiff's motions for use of the law library, dkt. 39, and to appoint an expert to assist the court, dkt. 41.

In his motion to appoint a court expert, plaintiff suggests that an expert is necessary to help the court evaluate the medical evidence in this case. As plaintiff points out, Rules 706 and 614 of the Federal Rules of Evidence give district courts discretion to appoint impartial expert witnesses in a civil case to assist the court in evaluating complex scientific evidence. *McKinney v. Anderson*, 924 F.2d 1500 (9th Cir. 1991) (district court might appoint impartial expert to help court evaluate scientific evidence on health effects of exposure to secondary cigarette smoke). The court has the discretion to apportion the costs of its expert to one side. *Ledford v. Sullivan*, 105 F.3d 354, 361 (7th Cir. 1997). In this case, however, an expert is not necessary to allow the court adequately to evaluate the medical evidence,

which is not particularly complex. Therefore, funds to pay for an expert are not available under 28 U.S.C. § 1915 and are not compelled under Fed. R. Evid. 614 or 706(b).

In his motion for use of the law library, plaintiff is asking the court to order the law librarian to adhere to the deadlines in the court's August 16, 2010 scheduling order. This court does not have any authority to act as a general reviewer of a prison's internal policies. The court's role is limited to protecting an inmate from an unconstitutional interference with his right to petition the courts, and to vindicating the court's own case management procedures.

Plaintiff's motion raises no constitutional concerns because none of the challenged practices prevented petitioner from filing his initial complaint. The Constitution guarantees a prisoner litigant no more than the right to file a sufficiently-pled grievance with a court. *Lewis v. Casey*, 518 U.S. 343 (1996). Where, as here, an inmate plaintiff succeeds in filing a complaint that triggers substantive judicial review of his claims, then he has successfully exercised his right of access to the courts, and that's the end of it; the Constitution entitles him to nothing further. So although a prison must provide legal resources sufficient to allow a prisoner properly to plead his § 1983 civil suit, it has no constitutional obligation to provide legal resources that would enable that prisoner to litigate his suit effectively once it has been filed. *Lewis*, 518 U.S. at 354. *See also Smith v. Shawnee Library System*, 60 F.3d 317, 322 (7th Cir. 1995)(right of access to courts does not require state to provide assistance beyond pleading stage).

In addition, plaintiff has not shown that the denial of access to the law library has interfered with plaintiff meeting any deadlines in this court. In the future, if plaintiff is unable to meet a deadline because he has been denied access to the law library for reasons outside of

his control, then plaintiff he may request an extension of of deadline. At this time, plaintiff's motion for use of the law library will be denied.

ORDER

IT IS ORDERED that plaintiff Larry J. Brown's motions for use of the law library, dkt. 39, and to appoint an expert, dkt. 41, are DENIED.

Entered this 5th day of January, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge