

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

LARRY BRACEY,

Plaintiff,

v.

JAMES GRONDIN, C.O. HUNT,
THOMAS TAYLOR and C.O. MURRAY,

Defendants.

ORDER

10-cv-287-bbc

Plaintiff Larry Bracey, represented by counsel, has filed a motion asking the court to enjoin officials at the Wisconsin Secure Program Facility from destroying his legal documents. Plaintiff contends that he was accused of breaking a television in his cell and as a result, prison staff intends to destroy all of his property, including his legal file for this case. Plaintiff requests that the court issue an order prohibiting prison staff from destroying plaintiff's property and allowing plaintiff's counsel to inspect and preserve plaintiff's documents on his behalf.

I will deny plaintiff's request for emergency injunctive relief. The court grants emergency injunctive relief only in rare situations and plaintiff has not provided enough

information in his motion to justify such extraordinary relief. Plaintiff alleges only that his legal file “having to do with the above-captioned case” will be destroyed. However, he does not identify any specific documents, exhibits or other evidence relevant to the case and necessary for trial that will be destroyed, or even suggest what types of documents might be destroyed that would be relevant to his excessive force claims. Without knowing whether the prison staff will destroy evidence that is necessary for trial, I will not enjoin prison officials. However, if it turns out that prison staff does destroy evidence that was relevant to this case and that plaintiff intended to use at trial, he may bring a motion against defendants for spoliation of evidence and may request an appropriate sanction and jury instruction.

ORDER

IT IS ORDERED that plaintiff Larry Bracey’s motion to preserve legal documents, dkt. #123, is DENIED.

Entered this 13th day of October, 2011.

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