

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

JOSE R. PADILLA,

Plaintiff,

v.

DR. GARY MAIER, DR. DALIA SULIENE
and C.O. BITTLEMAN,

Defendants.

ORDER

11-cv-425-bbc

In this prisoner civil rights case, plaintiff Jose Padilla is proceeding on his claims that defendants Gary Maier and Dalia Suliene violated his rights under the Eighth Amendment and state law by failing to provide him proper health care for his mental and physical needs and that defendant C.O. Bittleman used excessive force against him. Now before the court is plaintiff's motion for an interpreter for court proceedings. This motion will be denied.

In a federal civil lawsuit like this one, the court has no ability to pay for an interpreter for court proceedings. Although the court can help plaintiff find an interpreter, plaintiff will have to pay the interpreter. If plaintiff cannot afford to pay, then there will be no interpreter. This is a harsh result, but the court does not have money to pay for interpreters in cases like this one, and the law makes a party like plaintiff responsible for the cost for an interpreter. If plaintiff can find a way to pay for an interpreter, he may refile his motion.

Because of this, I have canceled the telephonic preliminary pretrial conference on August 10, 2011 since it would be unfair—and pointless—to have plaintiff participate without an interpreter. Instead, I have set the dates in the pretrial conference order and I have provided the usual written explanation of how things work in this court. This way, plaintiff can take his time to read the order, perhaps obtain assistance from others, and not get the feeling that things are happening that he

doesn't understand. By canceling the telephonic hearing I am losing the opportunity to get input from the parties about the dates. If plaintiff or defendants have concerns about the dates I have set, then they should send a letter to the court explaining their concerns.

In his motion to appoint an interpreter, plaintiff also explains that his June 30, 2011 subpoena duces tecum request, dkt. 6, was not made to the court, but to the attorney general's office. Regardless, as mentioned in the court's June 30, 2011 order, the discovery period will commence once the pretrial conference order has been entered. After discovery has commenced, plaintiff can make his discovery requests directly to the attorney(s) representing the defendants.

One final note regarding the term subpoena duces tecum: the term for requesting documents from a *party* in a lawsuit is more correctly called a "request for production of documents." A subpoena duces tecum is a request to someone who is *not* a party to the lawsuit to provide specific documents. A subpoena duces tecum is provided by the court, but a request for production of documents, as with other discovery requests, is made directly between the parties.

ORDER

IT IS ORDERED that plaintiff Jose Padilla's motion for an interpreter, dkt. 8, is DENIED WITHOUT PREJUDICE. The telephonic preliminary pretrial conference on August 10, 2011 is canceled. The pretrial conference order setting the schedule for this case will be forthcoming.

Entered this 4th day of August, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge