

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

MICHAEL B. KINGSLEY,

Plaintiff,

v.

KEVIN RADDATZ,

Defendant.

ORDER

13-cv-432-bbc

Plaintiff Michael B. Kingsley is proceeding to trial on his claim that defendant Kevin Raddatz used excessive force in violation of the Fourteenth Amendment when defendant allegedly struck plaintiff at the county jail. On August 29, 2014, plaintiff filed a motion to stay the trial on two grounds: (1) he is being released from prison on September 9, 2014 and trial preparation is easier when he is not incarcerated and (2) he has petitioned for a writ of certiorari from the United States Supreme Court in Kingsley v. Hendrickson, 744 F.3d 443 (7th Cir. 2014), which addresses the issue of what standard to apply in excessive force cases brought under the Fourteenth Amendment. Dkt. #42. Neither reason is a compelling one for moving the trial date, especially one that is as close as the one in this case.

In Kingsley v. Hendrickson, 744 F.3d 443 (7th Cir. 2014), the Court of Appeals for

the Seventh Circuit provided guidance for applying the due process clause of the Fourteenth Amendment to claims of excessive force. Although this standard may be clarified or changed by the United States Supreme Court, that possibility is extremely remote because the Court only rarely grants petitions for certiorari. Therefore, plaintiff's petition is not a sufficient reason to delay the trial. Accordingly, I am denying plaintiff's motion.

ORDER

IT IS ORDERED that plaintiff Michael B. Kingsley's motion to stay the trial, dkt. #42, is DENIED.

Entered this 4th day of September, 2014.

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