

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

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MUSTAFA-EL K.A. AJALA,  
formerly known as Dennis E. Jones-El,

Plaintiff,

v.

KELLI WEST, TODD OVERBO,  
PETER HUIBREGTSE and GARY BOUGHTON,

Defendants.  
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ORDER

13-cv-546-bbc

The question in this case is the extent to which plaintiff Mustafa-El K.A. Ajala, a Muslim prisoner at the Wisconsin Secure Program Facility, has the right to wear a kufi, which is a head covering worn by some Muslims. After two rounds of briefing, I denied defendants' motion for summary judgment in most respects and I recruited counsel to represent plaintiff at trial. Dkt. ##52 and 53.

I did not anticipate renewed motions for summary judgment, but the new schedule issued by Magistrate Judge Stephen Crocker includes a December 4, 2015 deadline for filing dispositive motions. Dkt. #54. My understanding of the reason for this is that plaintiff has been transferred from administrative confinement to general population since the court issued the summary judgment decision and defendants believe that plaintiff's new housing status strengthens their position for obtaining judgment as a matter of law. This is a curious

position because defendants argued in their summary judgment briefs that “the justifications for the [prison’s] religious headgear restrictions are the same for general population and in [segregation].” Dkt. #32 at 10. In fact, defendants argued that they had “heighten[ed]” security interests when prisoners are in segregation because those prisoners represent “an even more dangerous group.” Id. at 11.

It is true that I noted in the summary judgment opinion some potential differences between the security risks posed by prisoners in general population and segregation who wear religious headgear, but I did not consider those differences to be dispositive for the purpose of deciding defendants’ motion for summary judgment. Particularly because defendants have had two opportunities to convince the court that they are entitled to summary judgment, I do not think that a third round of summary judgment briefing is an efficient use of resources. Obviously, defendants are free at trial to present evidence regarding the implications of plaintiff’s transfer.

Accordingly, I am changing the schedule to remove the deadline for filing dispositive motions and I am adjusting the remaining deadlines commensurately. If either side wants to file a motion for summary judgment, that side will have to file a motion justifying its position to the court. I would be more likely to consider such a request if the parties agreed that a trial is not needed and that the case could be resolved on cross motions for summary judgment.

## ORDER

IT IS ORDERED that the deadline for dispositive motions is STRICKEN and the schedule for this case is AMENDED as follows:

- Disclosure of Experts: Proponents: September 18, 2015  
Respondents: November 20, 2015
- Discovery Cutoff: January 15, 2016
- Trial: February 22, 2016

With respect to the final pretrial submissions, the parties should follow the same formula in the July 29, 2015 scheduling order, using February 22, 2016 as the new trial date.

Entered this 31st day of July, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge