

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

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ERICK PETERSON,

Plaintiff,

v.

MICHAEL MEISNER, TIM DOUMA,  
JANEL NICKEL, LON BECKER,  
TIMOTHY CASIANA, CAPT. FRANSON,  
LT. BLOUNT, NATHAN PRESTON,  
C.O. KOPFHAMER, C.O. NEUMAIER, C.O. ROYCE,  
C.O. RATAJCZAK, C.O. KYBURZ, C.O. RISEN,  
C.O. HAAG, C.O. MORGAN, C.O. HAUTAMAKI,  
LORRILEE WESTABY, MARY LEISER,  
DAHLIA SULIENE, NURSE THORNE,  
NURSE EMILY, KAREN ANDERSON, ZIEGLER,  
JOANNE LANE, ELLEN RAY, CINDY FRANCOIS,  
CINDY O'DONNELL, DEIRDRE MORGAN,  
CHARLES COLE, DENNIS SCHUH,  
CHARLES FACKTOR, ED WALL,  
DENNIS RICHARDS, and ALEXANDER AGNEW,

Defendants.

OPINION & ORDER

15-cv-49-jdp

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Pro se petitioner Erick Peterson, currently incarcerated at the Green Bay Correctional Institution, brings this civil action under 42 U.S.C. § 1983 alleging that defendant prison officials at the Columbia Correctional Institution violated his constitutional rights by refusing him proper medical treatment, using excessive force during a cell extraction, conducting an improper strip search, keeping him in a cell with inhumane conditions, and denying him due process at his conduct report hearing. He also alleges that prison officials and members of the Columbia County Sherriff's Office conspired to fabricate battery charges against him.

The next step in this case is for the court to screen plaintiff's complaint and dismiss any portion that is legally frivolous, malicious, fails to state a claim upon which relief may be

granted, or asks for monetary damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. §§ 1915 and 1915A. In screening any pro se litigant's complaint, the court must read the allegations of the complaint generously. *Haines v. Kerner*, 404 U.S. 519, 521 (1972). After reviewing the complaint with this principle in mind, I conclude that plaintiff has stated claims against many of the named defendants for denying or interfering with his medical care, using excessive force against him, strip searching him, and fabricating battery charges against him. Plaintiff's allegations are too vague to support claims regarding the conditions in his cell or due process violations at his conduct report hearing, but I will give him a chance to supplement his complaint with allegations describing these claims in more detail. I will dismiss several defendants whom plaintiff has not implicated in any wrongdoing.

#### ALLEGATIONS OF FACT

The following facts are drawn from plaintiff's complaint. Plaintiff is currently a prisoner at the Green Bay Correctional Institution. However, the facts giving rise to plaintiff's complaint occurred while he was incarcerated at the Columbia Correctional Institution (CCI).

##### **A. Cell extraction**

On July 23, 2012, Dr. Dahlia Suliene prescribed plaintiff, who weighed over 400 pounds, ice twice a day to cool him down. On July 24, 2012, plaintiff was in segregation unit DS-2 at CCI. Plaintiff informed Correctional Officer Nathan Preston that he had a prescription for ice. Preston later brought a bag of ice to plaintiff's cell. However, the ice had black pepper sprinkled on it. Plaintiff told Preston the ice was to drink to cool him down and

requested a new bag. Plaintiff also requested to see the sergeant, but Preston ignored the requests. Plaintiff then kicked his cell door a few times and yelled that he wanted to see the sergeant. Preston walked away from plaintiff's cell.

Preston returned about 10 minutes later and told plaintiff to pack his things, because plaintiff was going to DS-1. Plaintiff again requested a new bag of ice and told Preston that he would file a lawsuit against Preston for denying him medical treatment. Preston walked away from plaintiff's cell.

About 15 minutes later, Captain Timothy Casiana came to plaintiff's cell and said he was being moved to DS-1. Plaintiff tried to tell Casiana how Preston gave him ice with pepper. Plaintiff also gave Casiana the bag of ice and the medical slip. Casiana said he did not care what Preston did to the ice. Casiana told plaintiff to put his hands through the trapdoor so he could be cuffed. Plaintiff refused and asked why he was being moved. Casiana said he was being moved for threatening to kill Preston. Plaintiff said he only threatened to sue Preston. Plaintiff then told Casiana that "Casiana and his buddies better get on their chicken suits and bring the gas because plaintiff is not coming out of his cell." Dkt. 1, at 8.

Casiana left but returned shortly with Officers Kopfhamer, Neumaier, and Royce. Casiana had a video camera. Casiana ordered plaintiff to put his hands through the trapdoor. Plaintiff complied. Casiana handcuffed plaintiff and then opened the door. Casiana told plaintiff to exit the cell. After plaintiff exited the cell, one of the officers put a waist belt on plaintiff and attached the handcuffs to the belt. Casiana then grabbed plaintiff's wrist and twisted, causing plaintiff pain. Plaintiff alleges he suffered nerve damage from the twisting of his wrist.

Plaintiff then pulled his hand away from Casiana and locked his hands together so Casiana could not twist his wrist. One of the officers slammed plaintiff's head into the wall, almost knocking him out and causing his head to bleed.

Plaintiff alleges Neumaier then kicked plaintiff in the leg several times, knocking him to the floor. The four officers then "jumped on the plaintiff and started kicking and punching him, in his legs, sides, ribs, etc." *Id.* at 10. Plaintiff almost passed out from lack of air. Casiana then got on plaintiff's back and "got his arm under plaintiff's neck and inside plaintiff's mouth and started pulling up on plaintiff's neck." *Id.* Additionally, one of the officers was "pounding" on plaintiff's calves and legs. *Id.* The officers then transported plaintiff to the Health Services Unit (HSU) in a wheelchair.

In the HSU, plaintiff tried to explain his injuries to Nurse Thorne. However, Correctional Officer Haag "appl[ied] assaulting pres[s]ure points to the plaintiff's chin and jaw causing all kinds of pain and stopping plaintiff from telling the nurse about the assault, or where he was hurt." *Id.* at 11. Casiana told Thorne where plaintiff was injured. Nurse Thorne looked at plaintiff's head, cleaned off the blood, looked at plaintiff's ankles, and concluded officers could transport him to his cell. The officers then transported plaintiff to DS-1.

When the officers and plaintiff reached a staircase, Casiana told plaintiff to walk up the stairs. Plaintiff said he could not walk up the stairs because of his injuries. Casiana then ordered the officers to drag plaintiff up the stairs.

Plaintiff was then strip searched by the extraction team. One of the officers cut off plaintiff's clothes with scissors. Plaintiff alleges one of the officers then reached between plaintiff's legs and "grabbed his penis and testicles and felt around on them." Dkt. 1, at 12. The officer then spread open plaintiff's buttocks.

After the strip search, the officers took plaintiff to his cell. Plaintiff alleges he was left naked in his cell for three days without running water, bedding, or clothing. “[P]laintiff had to sleep on a concrete slab for three days naked and freezing.” *Id.* On the fourth day, plaintiff was given clothing and bedding, however there was still no running water in the cell. Unnamed defendants ignored plaintiff’s requests for water.

## **B. Medical requests**

In July and August 2012, plaintiff repeatedly told Captain Casiana and Nurse Thorne that “there was something wrong with his legs, calves, ankles, hands, and wrist.” Plaintiff also showed Casiana and Thorne his bruises. “Casiana and Thorne ignored plaintiff’s medical needs and told plaintiff there is nothing wrong with him.” Dkt. 1, at 12.

On July 27, 2012, plaintiff was taken to the HSU. Plaintiff tried to show Dr. Suliene and Nurse Emily his injuries. However, Emily explained that plaintiff was only in the HSU to get his blood drawn. If plaintiff had other medical concerns, he needed to fill out a blue medical slip.

Over the next few months, plaintiff filed numerous inmate complaints for denial of medical treatment. Plaintiff alleges that the complaint examiners “conspired” with defendant Health Services Manager Karen Anderson. I take this to mean that Anderson and the examiners knew that plaintiff was in pain from the injuries suffered during the cell extraction but did nothing to help him. Defendants Joanne Lane, Lon Becker, Michael Meisner, Charles Facktor, Charles Cole, Dennis Schuh, and Deirdre Morgan<sup>1</sup> denied plaintiff’s various grievances about his lack of medical treatment.

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<sup>1</sup> In his complaint, plaintiff alleges that “Morgan” affirmed a ruling, but provides no first name for Morgan. Dkt. 1, at 17. This creates an ambiguity, because the complaint lists two defendants with the last name Morgan: Secretary Deirdre Morgan and C.O. Morgan. I infer,

Later, after plaintiff was transferred to the Green Bay Correctional Institution, plaintiff received an x-ray of his hand. The x-ray revealed a bone chip in his hand. Plaintiff alleges the bone chip was caused during the cell extraction.

### **C. Conduct report**

Two days after the cell extraction, Casiana wrote plaintiff a conduct report for battery, disobeying orders, and threats. Plaintiff was appointed Lorrilee Westaby as an advocate for the due process hearing. On July 30, 2012, plaintiff completed a witness list to have two fellow inmates testify at the hearing. According to plaintiff's complaint, Westaby did not do anything to help plaintiff. Westaby did not talk to witnesses, get a copy of the videotape, or get any statements. The conduct report hearing was held on August 10, 2012. Westaby did not object to witnesses not being present. Defendants Ziegler and Capt. Franson found plaintiff guilty.

Plaintiff appealed the hearing decision to Meisner. Meisner found no due process violation and affirmed the hearing decision. Plaintiff filed an inmate grievance about the violation of his due process right to call witnesses. As a result of this appeal, Ellen Ray recommended that plaintiff receive a new hearing with witnesses present. Meisner affirmed Ray's decision granting plaintiff a new hearing.

Plaintiff filled out a new witness list, but Security Director Janel Nickel would not let him have these witnesses testify at the hearing. Plaintiff was assigned advocate Mary Leiser for the new hearing. At the new hearing, Lt. Blount and Hautamaki found plaintiff guilty. Plaintiff appealed to Meisner, and Meisner affirmed the decision.

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based on defendants' respective titles and the fact that no other correctional officer is alleged to have reviewed complaint decisions, that "Morgan" refers to Deirdre Morgan.

Plaintiff filed a grievance about his hearing, alleging a violation of plaintiff's right to call witnesses. Cindy Francois denied the complaint. Facktor and Cindy O'Donnell affirmed Francois' decision.

#### **D. Criminal charges**

On August 30, 2012, defendant Alexander Agnew, a sergeant for the Columbia County Sheriff's Office, interviewed plaintiff regarding events during the cell extraction. Plaintiff said he wanted the officers charged with assault and requested pictures of his injuries. Plaintiff alleges that defendants Agnew and Richards "criminally and civilly conspired with Meisner, Casiana, Kopfhamer, Neumaier, and Royce" to have the district attorney charge plaintiff with battery "to cover up the assaults . . ." Dkt. 1, at 22. Plaintiff was charged with battery by a prisoner. Although that charge was ultimately dismissed, plaintiff was convicted of disorderly conduct.

### ANALYSIS

Plaintiff brings six types of claims against defendants. Plaintiff alleges that defendants: (1) violated his Eighth Amendment right to medical care; (2) used unnecessary force against him; (3) conducted an unconstitutional strip search; (4) placed him in unconditionally harsh conditions of confinement; (5) violated his due process rights in his conduct report hearing; and (6) violated his due process rights by conspiring to fabricate battery charges against him. In considering plaintiff's allegations, I will accept those facts as true for the purpose of deciding whether plaintiff states a plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

## A. Medical care

Plaintiff alleges that prison staff violated his Eighth Amendment right to adequate medical care by tampering with his ice bag, interfering with explaining his injuries to a nurse, and providing inadequate care for his injuries.

To succeed on an Eighth Amendment claim for inadequate medical treatment, plaintiff must demonstrate that defendants “display[ed] deliberate indifference to serious medical needs of prisoners.” *Greeno v. Daley*, 414 F.3d 645, 652 (7th Cir. 2005) (internal citations and quotation marks omitted). “A claim of deliberate indifference to a serious medical need contains both an objective and a subjective component.” *Id.* at 653. “In the medical care context, the objective element requires that the inmate’s medical need be sufficiently serious.” *Gutierrez v. Peters*, 111 F.3d 1364, 1369 (7th Cir. 1997). The Seventh Circuit defines “[a] serious medical condition [a]s one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would perceive the need for a doctor’s attention.” *Greeno*, 414 F.3d at 653. A medical need may be serious if it is life-threatening, carries risks of permanent serious impairment if left untreated, results in needless pain and suffering, significantly affects an individual’s daily activities, *Gutierrez*, 111 F.3d at 1371-73, or otherwise subjects the prisoner to a substantial risk of serious harm. *Farmer v. Brennan*, 511 U.S. 825, 847 (1994). “To satisfy the subjective component, a prisoner must demonstrate that prison officials acted with a sufficiently culpable state of mind.” *Id.*

Plaintiff alleges that he was prescribed a bag of ice to drink to keep cool, but Correctional Officer Preston delivered ice sprinkled with pepper. There seems to be no reason for putting pepper on ice, other than to make the ice unpleasant to consume, so plaintiff has

stated a plausible claim against Preston. *Cf. Arnett v. Webster*, 658 F.3d 742, 753 (7th Cir. 2011) (“Allegations of refusal to provide an inmate with prescribed medication . . . can also state an Eighth Amendment claim.”).

Plaintiff also alleges that when he was brought to Nurse Thorne, defendant Haag pressed on pressure points on plaintiff’s chin and jaw, keeping him from speaking to the nurse. Instead, defendant Casiana told Thorne about plaintiff’s injuries. I take plaintiff to be saying that Casiana did not accurately describe the true extent of plaintiff’s injuries, which led Thorne to not fully examine plaintiff. These are somewhat bizarre allegations, but accepting them as true for purposes of this screening order, I conclude that plaintiff states medical care claims against Haag and Casiana for preventing plaintiff from receiving the full amount of care he needed. I also conclude that plaintiff may proceed against Thorne for treating plaintiff based on Casiana’s information rather than asking plaintiff about the extent of his injuries, and he may proceed against the other members of the extraction team, who were presumably still with plaintiff yet failed to intervene in Haag and Casiana’s treatment of plaintiff.

Plaintiff further alleges that he complained about his pain and injuries to defendants Casiana, Thorne, Suliene, and Nurse Emily, but none of them took action to help plaintiff. This is sufficient to state medical care claims against these defendants. Plaintiff then filed grievances about his ongoing pain, but they were denied by several examiners who “conspired” with Health Services Unit Manager Anderson. These allegations state claims against defendants Anderson, Lane, Becker, Meisner, Facktor, Cole, Schuh, and Deirdre Morgan.

## B. Excessive force

Plaintiff alleges that several defendants used unnecessary force against him at several points on July 24, 2012. “The unnecessary and wanton infliction of pain on a prisoner violates his rights under the Eighth Amendment.” *Lewis v. Downey*, 581 F.3d 467, 475 (7th Cir. 2009) (internal quotation omitted). To prevail on a claim of excessive force against a correctional officer, a plaintiff must prove that the officer applied force “maliciously and sadistically for the very purpose of causing harm,” rather than “in a good faith effort to maintain or restore discipline.” *Hudson v. McMillian*, 503 U.S. 1, 6-7 (1992) (quoting *Whitley v. Albers*, 475 U.S. 312, 320-21 (1986)). The factors relevant to this determination include (1) why force was needed; (2) how much force was used; (3) the extent of the injury inflicted; (4) whether the defendant perceived a threat to the safety of staff and prisoners; and (5) whether efforts were made to temper the severity of the force. *Whitley*, 475 U.S. at 321.

Plaintiff first alleges that during the cell extraction, officers slammed his head into the wall, kicked him, and punched him. Although plaintiff alleges that he resisted the initial command to leave his cell, and prison officials are allowed to use some force in obtaining compliance with their orders, plaintiff’s allegations that he was severely beaten is more than enough to state an excessive force claim against each of the officers on the cell extraction team: defendants Casiana, Kopfhamer, Royce, and Neumaier. Plaintiff also alleges that after his visit to the HSU, the team dragged him up the stairs after he was too injured to walk up the stairs. This is sufficient to state an excessive force claim against each member of the cell extraction team.

Plaintiff’s allegations about defendant Haag applying force to pressure points on plaintiff’s head also supports a claim, because plaintiff states that this caused him pain, and I

can infer that there was no justification for Haag to do so. Plaintiff may also bring claims against the other members of the extraction team and defendant Nurse Thorne for failing to intervene in Haag's excessive force.

### **C. Improper strip search**

Plaintiff alleges that one of the extraction team members "grabbed his penis and testicles and felt around on them" during the course of a strip search. Dkt. 1, at 12. A strip search violates the Eighth Amendment when it is conducted in a harassing manner with the intent to humiliate and inflict psychological pain rather than for legitimate prison purposes. *Hamlin v. Holmes*, 13-cv-202-bbc, Dkt. 10 at 7-9. (W.D. Wis. May 1, 2013). At this point, plaintiff's allegations are sufficient to support claims regarding both the decision to subject him to such an invasive search and the manner in which the search itself was executed. *See id.* at 8 ("Stated another way, the question is whether there was any legitimate penological reason for both the search and its scope."); *Vasquez v. Raemisch*, 480 F. Supp. 2d 1120, 1131-32 (W.D. Wis. 2007) (granting leave to proceed on manual strip search where officers did not give plaintiff opportunity to consent to visual search and no allegations indicated legitimate reason preventing visual inspection). Plaintiff does not explain which member of the team decided to perform a manual strip search or which member fondled his genitals, but at this point I will allow him to proceed against all the members of the team because I can infer that the other members could have intervened in the violation of plaintiff's rights.

### **D. Conditions of confinement**

Plaintiff alleges that prison staff subjected him to unconstitutionally harsh conditions of confinement for several days while in a segregation unit. The Eighth Amendment's prohibition against cruel and unusual punishment imposes a duty on prison officials to

provide inmates with “humane conditions of confinement.” *Farmer*, 511 U.S. at 832. Although there is no definitive test to determine what constitutes cruel and unusual conditions under the Eighth Amendment, the Seventh Circuit has concluded it is an Eighth Amendment violation to keep inmates “confined in a cell at so low a temperature as to cause severe discomfort and in conditions lacking basic sanitation.” *Del Raine v. Williford*, 32 F.3d 1024, 1034 (7th Cir. 1994). Also, “confinement in isolation without adequate clothing or bedding supports an Eighth Amendment claim.” *Gillis v. Litscher*, 468 F.3d 488, 493 (7th Cir. 2006) (citing *Maxwell v. Mason*, 668 F.2d 361, 365 (8th Cir. 1981)). Inadequate utilities, such as water and plumbing can also violate the Eighth Amendment. *Id.*

In this case, plaintiff alleges that he was taken to a cell without bedding, clothing, or running water. “Plaintiff had to sleep on a concrete slab for three days naked and freezing.” Dkt. 1, at 12. Although these allegations support a conditions-of-confinement claim, plaintiff does not explain who was responsible for keeping him in these conditions. Federal Rule of Civil Procedure 8(a)(2) requires a complaint to include “a short and plain statement of the claim showing that the pleader is entitled to relief.” But plaintiff fails to comply with Rule 8 by explaining how the defendants he names in the complaint participated in this constitutional violation. Lawsuits brought under 42 U.S.C. § 1983 against individuals require that the plaintiff allege each defendant’s personal involvement to support a viable claim. I will dismiss this portion of plaintiff’s complaint for plaintiff’s failure to comply with Rule 8, but I will give him an opportunity to present supplemental allegations explaining who was responsible for the substandard conditions.

## E. Due process–conduct report

Plaintiff alleges that he was denied his right to due process rights during his conduct report hearings because he was not allowed to call witnesses. A prisoner challenging the process afforded in a prison disciplinary proceeding must show that: (1) he has a liberty or property interest with which the state interfered; and (2) the procedures he was afforded upon that interference were constitutionally deficient. *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 460 (1989); *Marion v. Columbia Corr. Inst.*, 559 F.3d 693, 697 (7th Cir. 2009); *Scruggs v. Jordan*, 485 F.3d 934, 939 (7th Cir. 2007).

Plaintiff does not explain how he was punished following his disciplinary conviction or the consequences of the disciplinary proceeding. But even if I assume that he was punished in a way that deprived him of a liberty interest, the type of process plaintiff was due depends on the disciplinary consequences he faced. There are some circumstances in which a prisoner may have a due process right to call witnesses, such as when a prisoner's liberty interest in good-time credits is at stake. *See Scruggs*, 485 F.3d at 939. However, an inmate is not guaranteed the right to call witnesses when he is at risk of losing a lesser liberty interest, such as placement in segregation. *See Gibson v. Pollard*, 610 F. App'x 571, 573 (7th Cir. 2015) (“[A]n inmate . . . facing transfer to a more-restrictive prison setting is not entitled to the same level of process as an inmate facing a longer prison stay through the loss of good time.”).

Because plaintiff does not explain how he was punished as a result of the hearing at which he was not allowed to call witnesses, his allegations regarding this claim fail to comply with Rule 8. As with his conditions-of-confinement claim, I will dismiss this portion of the complaint but give plaintiff a short time to file a supplement explaining how he was

punished. In particular, plaintiff should explain whether he was placed in segregation following the disciplinary conviction, or whether he lost any good-time credits.<sup>2</sup>

Plaintiff also alleges that his advocates at the hearing did not do anything to help him. However, “due process does not require that prisons appoint a lay advocate for a disciplinary hearing unless an illiterate inmate is involved . . . or where the complexity of the issue makes it unlikely that the inmate will be able to collect and present the evidence necessary for an adequate comprehension of the case.” *Wilson-El v. Finnan*, 263 F. App’x 503, 506 (7th Cir. 2008) (internal quotation omitted). Plaintiff does not explain whether he needed a lay advocate under this standard, nor, as discussed above, is it clear exactly what process plaintiff was due without knowing the punishment he received, so I will dismiss this portion of the complaint and give plaintiff a chance to supplement his allegations about the advocate.

#### **F. Due process—criminal charges**

Plaintiff alleges that defendants Agnew and Richards of the Columbia County Sheriff’s Office conspired with members of the cell extraction team to recommend that the district attorney charge plaintiff with battery by a prisoner. I take this to mean that the cell extraction team members fabricated testimony that plaintiff battered them, and that Agnew and Richards knew this, yet recommended the criminal charge anyway. My own review of electronic court records available at the Wisconsin Circuit Court Access website shows that the battery charge was dismissed but that plaintiff was convicted of disorderly conduct. These

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<sup>2</sup> To the extent that plaintiff attempts to bring due process claims regarding his initial conduct report hearing, I will not allow him to bring claims regarding that hearing because any potential due process violation in that hearing was rectified by prison officials vacating the first decision and holding a new hearing. Defendants Ziegler, Franson, Ray, and Westaby will be dismissed from the case because plaintiff’s allegations against them pertain only to this first hearing.

allegations are sufficient to state a due process claim against Agnew and Richards. *See Whitlock v. Brueggemann*, 682 F.3d 567, 580 (7th Cir. 2012) (“We have consistently held that a police officer who manufactures false evidence against a criminal defendant violates due process if that evidence is later used to deprive the defendant of her liberty in some way.”). I will also allow plaintiff to proceed against on due process claims against members of the cell extraction team, because it is arguable that they were acting under color of state law when they fabricated testimony regarding battery by a prisoner to share with Agnew and Richards.

### **G. Remaining defendants**

Plaintiff names several people as defendants in his complaint without alleging any personal involvement by them. Tim Douma, C.O. Ratajczak, C.O. Kyburz, C.O. Risen, C.O. Morgan, and Secretary Ed Wall are not accused of any wrongdoing, and will therefore be dismissed from the case.

## **ORDER**

IT IS ORDERED that:

1. Plaintiff Erick Peterson is GRANTED leave to proceed on the following claims:
  - a. Eighth Amendment medical care claims against:
    - i. Defendant Nathan Preston for tampering with the ice that had been prescribed to plaintiff.
    - ii. Defendants C.O. Haag and Timothy Casiana for interfering with plaintiff’s medical treatment following his cell extraction, defendant Nurse Thorne for failing to ask plaintiff about his injuries, and defendants C.O. Kopfhamer, C.O. Royce, and C.O. Neumaier for failing to intervene.
    - iii. Defendants Casiana, Thorne, Dahlia Suliene, and Nurse Emily for ignoring plaintiff’s requests for treatment, defendants Joanne Lane, Lon Becker, Michael Meisner, Charles Facktor, Charles Cole, Dennis Schuh, and Deirdre Morgan for denying his

grievances about the lack of treatment, and defendant Karen Anderson for “conspiring” with the examiners to deny his grievances.

- b. Eighth Amendment excessive force claims against:
    - i. Defendants Casiana, Kopfhamer, Royce, and Neumaier for beating plaintiff during the cell extraction and dragging him up a flight of stairs.
    - ii. Defendant Haag for applying force on pressure points on plaintiff’s head, and defendants Casiana, Kopfhamer, Royce, Neumaier, and Thorne for failing to intervene in Haag’s actions.
  - c. Eighth Amendment claims against defendants Casiana, Kopfhamer, Royce, and Neumaier for conducting a manual strip search and inappropriately touching plaintiff during the search.
  - d. Due process claims against defendants Casiana, Kopfhamer, Royce, Neumaier, Alexander Agnew, and Dennis Richards for fabricating testimony leading to plaintiff being charged with battery on a prisoner.
2. The portions of plaintiff’s complaint discussing his placement in cold conditions and due process violations at his conduct report hearing are DISMISSED under Federal Rule of Civil Procedure 8. Plaintiff may have until May 25, 2016, to submit a supplement to his complaint explaining the circumstances surrounding these claims in more detail.
  3. Defendants Ziegler, Capt. Franson, Ellen Ray, Lorrilee Westaby, Tim Douma C.O. Ratajczak, C.O. Kyburz, C.O. Risen, C.O. Morgan, and Secretary Ed Wall are DISMISSED from the case.
  4. Under an informal service agreement between the Wisconsin Department of Justice and this court, copies of plaintiff’s complaint and this order are being sent today to the Attorney General for service on the state defendants. Under the agreement, the Department of Justice will have 40 days from the date of the Notice of Electronic Filing of this order to answer or otherwise plead to plaintiff’s complaint if it accepts service on behalf of defendants.
  5. I am sending copies of plaintiff’s complaint and this order to the United States Marshal for service on defendants Agnew and Richards. Plaintiff should not attempt to serve defendants on his own at this time.
  6. For the time being, plaintiff must send defendants a copy of every paper or document that he files with the court. Once plaintiff has learned what lawyer will be representing defendants, he should serve defendants’ lawyer directly rather than defendants themselves. The court will disregard any documents

submitted by plaintiff unless he shows on the court's copy that he has sent a copy to defendants or to defendants' attorney.

7. Plaintiff should keep a copy of all documents for his own files. If plaintiff does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents.
8. If plaintiff is transferred or released while this case is pending, it is his obligation to inform the court of his new address. If he fails to do this and defendants or the court are unable to locate him, his case may be dismissed for his failure to prosecute it.

Entered May 4, 2016.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge