

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

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QUINTIN D. L'MINGGIO,

Plaintiff,

v.

PAMELA BARTELS, SHIRLEY OLSON,  
DR. BOSTON and JANE DOES RNs/LPNs,

Defendants.

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ORDER

01-C-0559-C

On June 20, 2002, I granted plaintiff Quintin D. L'Minggio's request for leave to proceed in forma pauperis on a claim that defendants were deliberately indifferent to his serious dental needs in violation of the Eighth Amendment. On July 17, 2002, I denied plaintiff's first motion for appointment of counsel.

Plaintiff has filed a motion for reconsideration of the order denying his motion for appointment of counsel. The motion will be denied. As discussed in detail in the July 17 order, this case is not complex, plaintiff appears competent to represent himself and his success will rest entirely on the facts rather than the law. Nothing in plaintiff's motion for reconsideration persuades me that appointed counsel is warranted.

In addition, plaintiff has filed a “motion to compel,” which I construe as a request for a preliminary injunction in order to prevent Warden Gerald Berge from interfering in the prosecution of this lawsuit. Specifically, plaintiff requests an order from the court directing Warden Berge (1) to approve his requests for postage and (2) to allow him to keep more than seven books and two publications in his cell.

In support of his motion, plaintiff explains that he wishes to send out a letter to nine dentists in the hopes of securing an expert witness to testify on his behalf at trial in this case, but when he requested the prison to advance him postage for these letters, he received a memo from Warden Berge stating that “[y]ou are currently on Legal Loan Extension and this type of postage will not be approved unless you can provide a court order that states all of these letters must be sent out.” It should not be necessary for this court to involve itself in any party’s attempts to obtain witnesses or evidence in support or defense of a lawsuit, except to the extent that it may be called upon to resolve discovery disputes under Fed. R. Civ. P. 37. The magistrate judge has given the parties a deadline within which to name their experts. That order should be sufficient to inform prison officials that plaintiff may be seeking expert testimony. Accordingly, plaintiff’s motion for an order enjoining Warden Berge from refusing to approve his requests for a reasonable amount of postage will be granted.

Plaintiff also alleges that he is allowed only seven books and two publications in his

cell at any one time and that he may exchange them with other books stored in his property box on a monthly basis only. He complains that this limitation renders him unable to litigate this case. I am not persuaded that this is true. This court already has explained the law governing plaintiff's claim to him. He does not need to obtain additional legal precedent. Moreover, he has litigated five lawsuits in this court alone over the past few years. He is familiar with this court's procedures. His ability to succeed on his claim in this case will rest entirely on the facts presented on a motion for summary judgment or at trial. See Order dated July 17, 2002, dkt. #15, at 3. Restricting plaintiff to seven books and two publications will not hamper his ability to litigate this case. Accordingly, plaintiff's motion to compel Warden Berge to allow him to keep more than the standard number of books and publications in his cell will be denied.

#### ORDER

IT IS ORDERED that

1. Plaintiff Quintin D. L'Minggio's motion for reconsideration of the July 17, 2002, order denying his request for appointment of counsel is DENIED; and
2. Plaintiff's motion for an order preliminarily enjoining prison officials from interfering with his ability to prosecute this lawsuit is GRANTED in part and DENIED in part. It is GRANTED as to plaintiff's request to compel Warden Berge to approve his

request for reasonable postage for the sole purpose of writing to potential expert witnesses and is DENIED as to plaintiff's request to compel Warden Berge to allow him to keep more than the standard number of books and publications in his cell.

Entered this 21st day of August, 2002.

BY THE COURT:

BARBARA B. CRABB  
District Judge