

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

EDWARD J. PISCITELLO,

Plaintiff,

MEMORANDUM

v.

02-C-0252-C

GERALD BERGE,

Defendant.

On November 5, 2002, this court granted defendant's motion to dismiss plaintiff's claim that his Eighth Amendment rights were violated when he was subjected to a combination of harsh physical conditions at the Wisconsin Secure Program Facility, on the ground that plaintiff had failed to exhaust his administrative remedies. With the dismissal of the Eighth Amendment claim, there is only one claim left in this lawsuit, which is that plaintiff was denied biblical counseling courses in violation of the First Amendment. I have twice denied plaintiff's requests for leave to amend his complaint to add conspiracy allegations relative to his role as an informant for the city of Milwaukee and other claims unrelated to the claims on which he was granted leave to proceed. Now plaintiff has filed a document titled "Plaintiff's Motion and Memorandum for Temporary Restraining Order

and Preliminary Injunction.” Plaintiff acknowledges that he has not served a copy of his motion and memorandum on David Hoel, counsel for defendant. He states that when he asked the prison to make a copy for him, his request was ignored.

Earlier in this case, plaintiff complained that prison officials were refusing to make copies of documents for him to serve and file in this case because he had used up his annual legal loan limit. In a letter dated October 7, 2002, the court sent plaintiff a letter stating the following:

The record in your case shows that you already have had a preliminary pretrial conference before United States Magistrate Judge Stephen Crocker at which various deadlines were set so that this case can be moved steadily to resolution. That court order should be sufficient to show the various deadlines to which you are bound. You do not suggest that you are attempting to serve or file papers in accordance with the preliminary pretrial conference order and that you have followed the necessary procedure to obtain permission from the warden to obtain postage to serve and file those papers. Therefore, the court will take no formal action in response to your letter. If, however, you are unable to obtain permission from the warden to exceed the legal loan limit to serve and file papers required by the preliminary pretrial conference order to be served and filed, you may file a formal motion for an order enjoining the warden from denying you postage. Such a motion should be accompanied by a copy of the request you presented to the warden as well as a copy of the warden’s response to your request.

Plaintiff’s present motion is not accompanied by the required showing that he followed the proper procedure to receive an exception to the legal loan limit. Moreover, the majority of plaintiff’s motion consists of plaintiff’s own typewritten material. Plaintiff does not explain why he could not have typed or hand copied a duplicate copy for defendant’s lawyer.

Therefore, plaintiff's motion will be placed in the file and no further consideration will be given to it.

In any event, even if I could consider plaintiff's motion, I would deny it because plaintiff is asking for immediate injunctive relief that concerns claims that are not a part of this lawsuit.

Entered this 17th day of December, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge