

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

WILLIE WILLIAMS,

Plaintiff,

v.

WARDEN GERALD BERGE and
C.O. II H. BRAY

Defendants.

ORDER

02-C-283-C

This is a proposed civil action for monetary, declaratory and injunctive relief, brought pursuant to 42 U.S.C. § 1983. Plaintiff, a prisoner at the Supermax Correctional Institution, was granted leave to proceed on a single claim: that during a two-week period his legal mail was opened outside his presence in violation of the First Amendment. Presently before the court is plaintiff's motion for a preliminary injunction.

Plaintiff alleges that on July 13, 2002, defendant Bray ordered him to demonstrate that he had his dentures in his mouth before Bray would give him his legal mail. According to plaintiff, defendant Bray "conspired to cause me to act out and [defy] his order." Plaintiff maintains that defendant Bray's actions were simply intended to degrade and humiliate him. Plaintiff also alleges that "over 10 pieces of legal mail has been [deliberately] place[d] in this

property box” by defendant Bray. It is unclear what implications arise from the placement of plaintiff’s mail in the “property box,” but it appears that plaintiff is complaining that the delivery of his legal mail was delayed because he was placed on a paper restriction stemming from the incident involving his dentures. Separately, on July 22, 2002, plaintiff submitted an affidavit informing the court that he refuses to allow defendant Bray to open his legal mail and that in response Bray told him he would return the mail to its sender. Shooting for the moon, plaintiff seeks as relief a transfer out of Supermax, or at least that defendant Bray “refrain from any and all acts with plaintiff.”

Plaintiff’s motion is not in compliance with this court’s procedures to be followed on motions for injunctive relief, a copy of which is included with this order. Aside from the fact that plaintiff has failed to comply with the court’s procedures, plaintiff has not indicated how the 10 pieces of legal mail placed in the property box pertain to this case or how defendant Bray’s actions prejudiced his ability to conduct this lawsuit. I do note that one piece of mail has been returned to this court and two pieces of mail have been returned to defendants’ counsel because plaintiff refused to accept them. (Defendants’ counsel informs the court that he has re-sent the two items to plaintiff.) Although plaintiff may not like prison guards opening his legal mail, he was informed in this court’s June 20, 2002 order that prison officials may open a prisoner’s legal mail in his presence, Wolff v. McDonnell, 418 U.S. 539, 577 (1974), and in particular that “prison employees can open official mail sent by a court clerk to an inmate without infringing on any privacy right.” Antonelli v. Sheahan, 81 F.3d

1422, 1431 (7th Cir. 1996). Plaintiff should know that if he refuses persistently to accept his legal mail pertaining to this case, the case may be subject to dismissal.

In addition, although plaintiff contends that defendant Bray “cause[d]” him to “act out” by giving him an order to prove that he was wearing his dentures in order to embarrass him, plaintiff was informed earlier in this case when he was denied leave to proceed on a similar claim that “simple verbal harassment does not constitute cruel and unusual punishment, deprive a prisoner of a protected liberty interest or deny a prisoner equal protection of the laws.” DeWalt v. Carter, 224 F.3d 607, 612 (7th Cir. 2000). Because plaintiff has not shown even a negligible chance of success on the merits of the claims underlying his motion for a preliminary injunction, the motion will be denied. Finally, because plaintiff’s motion for a preliminary injunction will be denied, I need not address defendants’ request for an extension of time in which to respond to the motion.

IT IS ORDERED that plaintiff’s motion for a preliminary injunction is DENIED.

Entered this 24th day of July, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge