

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

ROGER LEE WARREN,

Plaintiff,

v.

GERALD BERGE,

Defendant.

MEMORANDUM

02-C-0093-C

On December 4, 2002, I dismissed defendants Jon Litscher, Janet Walsh, Twila Hagan and Collette Cullen from this case, granting all of defendants' motion to dismiss except defendant Gerald Berge's motion to dismiss plaintiff's claim that he was subjected to extreme cell temperatures in violation of the Eighth Amendment to the United States Constitution. Earlier, on November 14, 2002, plaintiff submitted a letter to the court which did not show that a copy had been sent to opposing counsel. On November 27, 2002, a member of the court's staff wrote to advise plaintiff that because he had failed to send a copy to opposing counsel as required by Fed. R. Civ. P. 5, I could not consider the document. On December 3, 2002, plaintiff advised the court that he had served Assistant Attorney General Phillip Ferris with a copy of his letter. This letter was not routed to chambers until after I

had issued my ruling on defendants' motion to dismiss.

Although plaintiff's letter is now properly before the court, it requires no action. In it, plaintiff appears to be supplementing arguments he made in opposition to defendants' motion to dismiss while the motion was being briefed and challenging defendants' disclosure of experts who are no longer relevant to the one remaining issue in the case. Because plaintiff's letter was submitted long after the time for briefing defendants' motion had closed, it is entitled to no consideration. In any event, nothing in the letter would have changed the decision I made to dismiss all of the defendants except defendant Berge and all of plaintiff's claims except his claim that he was subjected to extreme cell temperatures. Therefore, the letter has been placed in the file and no further action will be taken with respect to it.

Entered this 5th day of December, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge