

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

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BERRELL FREEMAN,

Plaintiff,

ORDER

v.

03-C-0021-C

GERALD BERGE and  
JON E. LITSCHER,

Defendants.

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Plaintiff is proceeding in this action on his claims that defendants subjected him to cruel and unusual punishment in violation of the Eighth Amendment when they subjected him to extreme cell temperatures and inadequate food at the Wisconsin Secure Program Facility. Now plaintiff has filed a “Motion for Court to Appoint Experts,” in which he asks the court to appoint an expert to testify as a witness for plaintiff on the subject of the heating and ventilation system at the Facility and another expert to testify on the subject of “psychological and physical torture.”

Rules 706 and 614 of the Federal Rules of Evidence give district courts discretion to appoint an impartial expert witnesses in a civil case to assist the court in evaluating complex

scientific evidence. See McKinney v. Anderson, 924 F.2d 1500 (9th Cir. 1991) (district court might appoint impartial expert to help court evaluate scientific evidence on health effects of exposure to secondary cigarette smoke). In that instance, the court has the discretion to apportion the costs of the expert to one side. Ledford v. Sullivan, 105 F.3d 354, 361 (7th Cir. 1997).

In this case, however, plaintiff is asking the court to obtain expert testimony to assist him in presenting his claim, rather than to assist the court to evaluate conflicting evidence. As necessary as the testimony of experts might be to the prosecution of plaintiff's claims, the funds to pay for his expert are not available under 28 U.S.C. § 1915 and are not compelled under Fed. R. Evid. 614 or 706(b). Therefore, I will deny plaintiff's request for the court's assistance in obtaining expert evidence.

#### ORDER

IT IS ORDERED that plaintiff's request that the court appoint expert witnesses to testify on his behalf is DENIED.

Entered this 25th day of July, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge