

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

GERHARD WITTE, M.D.,

MEMORANDUM

Plaintiff,

03-C-0438-C

v.

WISCONSIN DEPARTMENT OF CORRECTIONS,
STEVEN B. CASPERSON, individually and in his
official capacity, KENNETH R. MORGAN,
individually and in his official capacity, JAMES
GREER, individually and in his official capacity,
DAVID E. BURNETT, M.D., individually and in his
official capacity, EARL K. KIELLEY, individually
and in his official capacity, SHERIDAN D. ASH,
KIMBERLY K. RUSSELL, SUSAN L. NYGREN,
JEAN K. CARLSON, LINDA A. MORGAN, and
JAMES P. CONTE, JR.,

Defendants.

Defendants' counsel has written to the court to point out that counsel had entered into a stipulation regarding the nature of plaintiff's claims that did not contain any mention of plaintiff's due process claims. Defendant contends that by entering into the stipulation, plaintiff agreed that her only claims were a First Amendment claim and a claim that defendants had violated the whistleblower protections of Wisconsin law. Plaintiff denies

that the stipulation was intended to cover any claims but those brought under the First Amendment claims. He contends that his due process claim remains alive.

My own reading of the stipulation was that it applied only to the First Amendment claims and did not affect the due process claim. This is why I directed plaintiff to advise the court no later than September 29, 2004, whether he intends to pursue his due process claim and if so, to explain the nature of his claim and what he believes he was denied in the way of process.

Entered this 22nd day of September, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge