

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

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DATHAN BEAN,

Plaintiff,

v.

SANDRA HAUTAMAKI, JEFFREY P.  
ENDICOTT and KELLY MUESKE,

Defendants.

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ORDER

04-C-447-C

This case is scheduled for trial during the week beginning September 6, 2005 on plaintiff's claim that defendants were deliberately indifferent to a serious risk of physical harm to plaintiff when they put him in a cell with inmate Oskar McMillian. Plaintiff claims that while he was housed with McMillian, he was subjected to "psychological terror."

In an order entered in this case on May 31, 2005, I directed that no later than June 30, 2005, plaintiff was to provide the court with a prima facie showing of physical injury supporting his claim for money damages. I noted that under 42 U.S.C. § 1997e(e), prisoners are prevented from bringing claims for mental or emotional injury without a showing of physical injury. Plaintiff has now responded to that order, averring in an

affidavit that he suffered from headaches, a 50-lb weight loss and sleep deprivation from being double-celled with McMillian. Therefore, plaintiff has shown cause why this case should proceed to trial. I presume that at trial, plaintiff will provide certified copies of his medical records to corroborate his testimony about his weight loss and any other physical injuries that resulted from being double-celled with McMillian.

ORDER

IT IS ORDERED that plaintiff Dathan Bean may proceed to trial on his claim that defendants Sandra Hautmaki, Jeffrey P. Endicott and Kelly Mueske violated his Eighth Amendment rights when they double-celled him with Oskar McMillian on April 21, 2004.

Entered this 5th day of August, 2005.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge