

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

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LUIS A. RAMIREZ,

Plaintiff,

v.

ANTHONY MELI, MARC CLEMENTS,  
TOD RUSSEL, STEVEN SCHUELER,  
CURT JANSSEN, BRET MIERZEJEWSKI,  
MICHAEL GLAMANN and BRIAN PASSIG,

Defendants.  
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ORDER

04-C-0786-C

Plaintiff Luis A. Ramirez has been allowed to proceed on four claims in this lawsuit:  
(1) defendants Tod Russel, Bret Mierzejewski, Michael Glamann and Brian Passig used excessive force during his January 15, 2002 cell extraction in violation of the Eighth Amendment; (2) defendant Anthony Meli violated his Eighth Amendment rights by failing to prevent the members of the extraction team from using excessive force on him; (3) defendants Meli and Steven Schueler subjected him to cruel and unusual punishment in violation of the Eighth Amendment by holding him in an extremely cold cell without clothes; and (4) defendants Schueler, Meli, Russel, Mierzejewski, Glamann and Passig were

deliberately indifferent to his serious medical needs after the cell extraction.

Defendants have moved to dismiss plaintiff's first three claims for his failure to exhaust his administrative remedies. That motion is presently under advisement. Now plaintiff has filed a motion for summary judgment, addressing the same three claims that are the subject of the motion to dismiss. Because plaintiff does not propose any facts in connection with his claim that he was denied medical care following the cell extraction at issue in this case, his motion for summary judgment is appropriately construed as a motion for partial summary judgment. However, until this court determines whether the claims raised in plaintiff's motion for partial summary judgment will survive defendants' motion to dismiss, it is reasonable to stay briefing on the motion.

#### ORDER

IT IS ORDERED that briefing on plaintiff's motion for partial summary judgment is STAYED pending resolution of defendants' motion to dismiss.

Entered this 27th day of April, 2005.

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