

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

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JUAN VILLANUEVA-MONROY,  
Petitioner,

ORDER  
05-C-214-C

v.

STEPHEN HOBART, Warden,  
Respondent.  
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On June 7, 2005, I denied petitioner leave to proceed in forma pauperis in this action brought under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), and 28 U. S.C. § 1331. I concluded that petitioner's complaint that prison medical staff refused to prescribe the treatment he wanted for a fungus on the nails of his hands and feet did not rise to the level of an Eighth Amendment violation. In addition, I told petitioner that even if he had stated a claim of constitutional proportion, he would not have been allowed to proceed in the case because he had not alleged the respondent warden's personal involvement in the alleged deprivation of his rights. Del Raine v. Williford, 32 F.3d 1024, 1047 (7th Cir. 1994). Judgment of dismissal was entered on June 8, 2005.

Now, petitioner has filed a motion dated June 13, 2005, which I construe as a motion

to vacate the judgment and reopen the case, together with a proposed amended complaint. In his proposed amended complaint, petitioner sues in place of the warden a Doctor J. Reed and a V. Jones, the Oxford institution hospital administrator. Also, petitioner alleges that he has a painful mutilating skin disease on his hands that is causing his bones to deform and that Reed and Jones have failed to perform any medical tests to identify the disease or give petitioner medication for the pain and suffering the disease causes. These allegations are sufficient to state a claim of deliberate indifference to a serious medical need against respondents Reed and Jones.

Petitioner does not include in his proposed amended complaint any request for relief. I presume that petitioner is seeking the same relief he sought in his original complaint, an order requiring respondent to treat his medical problem.

#### ORDER

IT IS ORDERED that

1. Petitioner's motion to vacate the judgment entered herein on June 8, 2005, and reopen this case is GRANTED.

2. Petitioner's request for leave to proceed in forma pauperis against respondents Doctor J. Reed and V. Jones is GRANTED on petitioner's claim for injunctive relief that they have denied him medical care in violation of his Eighth Amendment rights.

3. For the remainder of this lawsuit, petitioner must send respondents a copy of every paper or document that he files with the court. Once petitioner has learned what lawyer will be representing respondents, he should serve the lawyer directly rather than respondents. The court will disregard any documents submitted by petitioner unless petitioner shows on the court's copy that he has sent a copy to respondent or to respondent's attorney.

4. Petitioner should keep a copy of all documents for his own files. If petitioner does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents.

5. The unpaid balance of petitioner's filing fee is \$171.77; petitioner is obligated to pay this amount in monthly payments as described in 28 U.S.C. § 1915(b)(2).

6. Copies of petitioner's complaint and this order are being sent today to the United States Marshal for service on the respondents.

7. The strike recorded against petitioner pursuant to 28 U.S.C. § 1915(g) in this court's order of June 7, 2005, is RESCINDED.

Entered this 24th day of June, 2005.

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