

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

STEVEN D. STEWART,

Plaintiff,

ORDER

v.

05-C-293-C

C.O. BARR,

Defendant.

This case is scheduled for trial the week beginning July 17, 2006 on plaintiff's claim that defendant Barr acted with deliberate indifference to his serious medical needs when he confiscated plaintiff's prescription medication. Now plaintiff has filed a document titled "Motion for Witnesses to be Brought to Court for Trial; Motion for Trial Exhibit Numbers to be Used at Trial."

In his motion, plaintiff states that he wants inmates Eric Gomez and Barry Ball to be brought to trial as his witnesses. He notes that both individuals are incarcerated at the Wisconsin Secure Program Facility.

In the magistrate judge's preliminary pretrial conference order entered on September 20, 2005, the parties were given a deadline of June 19, 2006, in which to disclose to each

other the names and addresses of their trial witnesses. A copy of this court's written Procedures for Calling Witnesses to Trial was attached to the order. Those procedures require that any party who wishes to call an incarcerated witness to testify must serve and file a motion for the issuance of writs of habeas corpus ad testificandum at least four weeks before trial, to make sure the incarcerated witness attends trial. In addition, the procedure states that before a writ of habeas corpus ad testificandum will issue, the moving party must make a showing that the prospective witness is willing to attend and has actual knowledge of relevant facts. Plaintiff's request is not accompanied by any affidavit that satisfies these requirements. Therefore, his motion for witnesses to be brought to trial will be denied as premature. Plaintiff is directed to refer to the witness procedure so that he can resubmit his motion and the necessary affidavits within the time allowed.

With respect to plaintiff's request for trial exhibit numbers to be used at trial, he may begin his exhibit numbers at 100 and up. Defendant may use exhibit numbers 1-99.

ORDER

IT IS ORDERED that plaintiff's motion for witnesses to be brought to trial is DENIED without prejudice.

Further, IT IS ORDERED that plaintiff's motion for trial exhibit numbers is

GRANTED. He is to number his exhibits 100 and up.

Entered this 2d day of May, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge