

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

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STEVEN D. STEWART,

Plaintiff,

v.

C.O. BARR, C.O. MCDANIELS, C.O. STOWELL,  
BURTON COX, JR., CINDY SAWINSKI  
and C.O. GOVIER (Male),

Defendants.  
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ORDER

05-C-293-C

Plaintiff Steven Stewart is proceeding in this case on his claims that 1) defendants Govier, Stowell and McDaniels violated his First Amendment free exercise and free expression rights when they refused to take plaintiff to his urology appointment because he refused to remove his braids; 2) defendants Cox and Sawinski violated plaintiff's Eighth Amendment rights when they denied him surgical treatment of his rectal mucosa prolapse condition; and 3) defendant Barr violated plaintiff's Eighth Amendment rights by refusing to allow plaintiff to take medication for three days that had been prescribed for gum disease. Now plaintiff has filed a motion for a preliminary injunction which is supported by plaintiff's affidavit, and a second motion for appointment of counsel.

In support of his motion for a preliminary injunction, plaintiff avers that on June 24, 2005, persons who are not parties to this action performed a strip search on him, temporarily placed him on back of cell restriction and denied him use of a catheter in retaliation for his having brought this lawsuit. He complains that when he complained about his treatment, additional persons retaliated against him for those complaints.

Plaintiff's new claims of retaliation cannot be brought in the context of this lawsuit. In situations in which a plaintiff alleges that prison officials have retaliated against him for initiating a lawsuit, it is the policy of this court to require the claim to be presented in a lawsuit separate from the one which is alleged to have provoked the retaliation. This is to avoid the complication of issues which can result from an accumulation of claims in one action.

The court recognizes an exception to this policy only where it appears that the alleged retaliation would directly, physically impair the plaintiff's ability to prosecute his lawsuit. In this case, plaintiff has made no showing that the alleged retaliatory acts are physically impairing his ability to prosecute his lawsuit. Therefore, if he wishes the court to consider his new claims of retaliatory conduct, he will have to file a new lawsuit raising the claims.

Plaintiff's second motion for appointment of counsel also will be denied. Plaintiff states that his imprisonment greatly limits his ability to litigate because he has limited access to the law library and lacks expertise in using the computer. In support of his motion,

plaintiff has attached several communications from the Nathan Law Office in which Arthur Nathan indicates a willingness to review plaintiff's medical records to determine whether plaintiff's case is one he would agree to take. The latest of these communications is dated August 2, 2005, in which Nathan states that he has received plaintiff's authorization for release of medical records and is waiting for them to arrive so that he can assess the potential merits of plaintiff's claims.

Because plaintiff is making a reasonable effort to find a lawyer on his own, and his efforts may prove successful, it is premature for him to turn to the court to appoint counsel on his behalf. If it turns out that Mr. Nathan declines to accept plaintiff's case, plaintiff is free to renew his motion at a later time.

#### ORDER

IT IS ORDERED that plaintiff's motions for a preliminary injunction and for appointment of counsel are DENIED.

Entered this 12th day of August, 2005.

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