

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

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LARRY RAY HOLMAN,

Petitioner,

v.

MEMORANDUM and ORDER

GLENN HEINZL, CANDACE WARNER,  
BOB GILMEISTER, LISA GREGER (EN),  
CATHERINE FARREY, MATHHEW FRANKS,  
STEVE CASPERSON, RICK RAEMISCH and  
JAMES GREER,

05-C-499-S

Respondents.

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Plaintiff Larry Ray Holman was allowed to proceed on his Eighth Amendment deliberate indifference claims against defendants Glen Heinzl, Candace Warner, Bob Gilmeister, Lisa Greger, Catherine Farrey, Matthew Franks, Steve Casperson, Rick Raemisch and James Greer and on his First Amendment retaliation claim against defendant Farrey.

On October 5, 2005 plaintiff moved for summary judgment pursuant to Rule 56, Federal Rules of Civil Procedure, submitting proposed findings of facts, conclusions of law, affidavits and a brief in support thereof. This motion has been fully briefed and is ready for decision.

On a motion for summary judgment the question is whether any genuine issue of material fact remains following the submission by

both parties of affidavits and other supporting materials and, if not, whether the moving party is entitled to judgment as a matter of law. Rule 56, Federal Rules of Civil Procedure. This motion has been fully briefed and is ready for decision.

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. An adverse party may not rest upon the mere allegations or denials of the pleading, but the response must set forth specific facts showing there is a genuine issue for trial. Celotex Corp. v. Catrett, 477 U.S. 317 (1986).

There is no issue for trial unless there is sufficient evidence favoring the non-moving party that a jury could return a verdict for that party. If the evidence is merely colorable or is not significantly probative, summary judgment may be granted. Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).

#### FACTS

For purposes of deciding plaintiff's motion for summary judgment the Court finds there is no genuine dispute as to any of the following material facts.

At all times material to this action plaintiff Larry Ray Holman was incarcerated at the New Lisbon Correctional Institution,

New Lisbon, Wisconsin (NLCI). Defendant Glenn Heinzl is a doctor at NLCI. Defendants Candace Warner, Bob Gilmeister and Lisa Greger are nurses at NLCI. Defendant Catherine Farrey is the Warden at NLCI. Defendant Matthew Franks is the Secretary of the Wisconsin Department of Corrections (DOC) and defendant Rick Raemisch is the Deputy Secretary. Defendant Steve Casperson is a DOC administrator. Defendant James Greer is the Health Service Administrator for DOC.

Plaintiff asserts that he had internal bleeding first on March 1, 2005 and that he had pain. He further asserts that he had internal bleeding from June 16, 2005 through July 4, 2005. He also asserts that defendants denied him treatment for internal bleeding, injured him by prescribing medications that had harmful side effects and made him drink contaminated water. Defendants dispute these assertions.

Plaintiff asserts that defendant Farrey retaliated against him for filing a legal suit by delaying his medical treatment. Defendant Farrey denies these assertions.

#### MEMORANDUM

Plaintiff claims that the defendants were deliberately indifferent to his serious medical need. Deliberate indifference of a serious medical need violates an inmate's Eighth Amendment rights. Estelle vv. Gamble, 429 U.S. 97 (1976). Deliberate

indifference is a subjective standard which requires that a defendant knew that plaintiff had a serious medical condition and acted with callous disregard to this condition. An official must both be aware of the facts from which the inference could be drawn that a substantial risk of serious harm exists and must also draw the inference. Farmer v. Brennan, 511 U.S. 826, 834 (1994).

A genuine issue of material fact remains as to whether defendants were deliberately indifferent to plaintiff's serious medical need. A genuine issue also remains as to whether defendant Farrey retaliated against plaintiff. Accordingly, plaintiff's motion for summary judgment will be denied.

On October 24, 2005 plaintiff moved for injunctive relief. This motion does not specify the injunctive relief that plaintiff seek. Accordingly, plaintiff's motion for injunctive relief will be denied.

Plaintiff also moves to strike discovery. This motion is not supported by any evidence that discovery has not been provided according to the Federal Rules. Accordingly, plaintiff's motion to strike discovery will be denied.

ORDER

IT IS ORDERED that plaintiff's motion for summary judgment is DENIED.

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IT IS FURTHER ORDERED that plaintiffs' motions for injunctive relief and to strike discovery are DENIED.

Entered this 1<sup>st</sup> day of November, 2005.

BY THE COURT:

S/

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JOHN C. SHABAZ  
District Judge