

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

THOMAS W. REIMANN,

Plaintiff,

v.

DAVID ROCK, JOHN PAQUIN,
MS. TIERNEY, CATHERINE FERREY
and LIZZIE TEGELS,

Defendants.

ORDER

05-C-501-C

In this civil action brought pursuant to 42 U.S.C. § 1983, plaintiff Thomas Reimann is pursuing First Amendment retaliation claims against defendants Catherine Ferry, Lizzie Tegels, John Paquin and Ms. Tierney. In addition, he has been allowed to proceed on two claims against defendant David Rock: 1) that Rock violated plaintiff's Eighth Amendment rights by failing to implement a soft restraint restriction when plaintiff is transported outside the prison; and 2) that Rock maliciously reduced plaintiff's medications to cause him pain. On March 20, 2006, plaintiff moved for a preliminary injunction with respect to his medication claim against defendant Rock. After plaintiff supplemented his motion with proposed findings of fact and evidentiary materials, I scheduled a hearing on the motion for

May 25, 2006. Subsequently, defendants responded to plaintiff's motion by filing proposed findings of fact and a brief. One of the evidentiary documents submitted with defendants' response is a letter addressed to plaintiff from Dr. Nathan Rudin, a physician at the University of Wisconsin Pain Treatment and Research Center. The letter is dated August 25, 2005 and reads in part as follows:

Dear Mr. Reimann:

Thank you for your recent letters. I have read them in detail, and have spoken this week with Mr. David Rock at your institution's health center.

I am sorry that you are unhappy with the timing of your methadone taper. However, it appears that the treatment plan is being carried out essentially according to my recommendations. Methadone is not an appropriate long-term treatment for your type of knee pain, and you should be able to establish reasonable pain relief if you work on the exercise program we discussed at our visit.

From his previous filings in this court, I know that plaintiff possesses more than a passing familiarity with Eighth Amendment jurisprudence. It is of some concern, then, that he would think that his Eighth Amendment claim against defendant Rock is viable in light of this letter. The letter shows Dr. Rudin's agreement with defendant Rock's decision to reduce plaintiff's dosage of methadone. It shows that plaintiff has little or no likelihood of success on his Eighth Amendment claim against defendant Rock. Snipes v. DeTella, 95 F.3d 586, 592 (7th Cir. 1996) (decision how to manage inmate's pain "is for doctors to decide free from judicial interference, except in the most extreme situations"). Because defendant

Rock's decision was in accordance with the recommendations made by Dr. Rudin, the substance of plaintiff's claim is reduced to nothing more than a disagreement between plaintiff and his health care providers. This is insufficient to support an Eighth Amendment claim. It leaves no evidence in the record that the decision to reduce plaintiff's dosage of methadone is "so blatantly inappropriate as to evidence intentional mistreatment." Id. Before I cancel the hearing and deny plaintiff's motion, I will give plaintiff a final chance to rescue his claim, if he can. Plaintiff should be aware that in light of Dr. Rudin's letter confirming that defendant Rock was implementing the reduction Rudin recommended, it will make no difference whether defendant Rock told plaintiff that he did not care whether plaintiff suffered during the reduction. If the comment was uttered, it was unprofessional, but it is insufficient to overcome defendant's showing that he is following Dr. Rudin's recommendation to reduce plaintiff's dosage of methadone and that the reduction is not clearly inappropriate under the circumstances.

Accordingly, IT IS ORDERED that plaintiff may have until May 16, 2006, in which to submit evidence showing that defendant Rock's reduction of medications is so blatantly inappropriate that it could be considered intentional mistreatment likely to seriously aggravate his condition. If plaintiff fails to make the required showing, I will deny his

motion and cancel the hearing set for May 25, 2006.

Entered this 9th day of May, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge