

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

Plaintiff Thomas Reimann is proceeding in this case on First Amendment retaliation claims against defendants Catherine Ferry, Lizzie Tegels, John Paquin and Ms. Tierney and two Eighth Amendment claims against defendant David Rock, one concerning defendant Rock's failure to implement a soft restraint restriction when plaintiff is transported outside the prison and the other concerning defendant Rock's allegedly malicious reduction of plaintiff's medications. Plaintiff moved for a preliminary injunction with respect to his medication claim and a hearing on the motion was scheduled for May 25, 2006. Shortly thereafter, defendants submitted a letter written to plaintiff from Dr. Rudin, a physician at the University of Wisconsin Pain Treatment and Research Center. In the letter, Rudin, who

had examined plaintiff, wrote that the reductions ordered by defendant Rock were in accordance with his recommendations. Because this letter represented a potentially fatal blow to plaintiff's Eighth Amendment claim and his attempt to secure injunctive relief, I issued an order dated May 9, 2006 giving plaintiff 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. I warned plaintiff that if he failed to make the required showing, I would deny his motion and cancel the hearing set for May 25, 2006.

On May 15, 2006, plaintiff filed an affidavit in support of his motion. The affidavit contains plaintiff's continued complaints that his requests for medical attention are not being answered by officials at the Stanley Correctional Institution. In addition, he has attached excerpts of various documents discussing the negative side effects of taking ibuprofen for persons with Hepatitis C. Also, he states that after defendant Rock refused to restore his former dosages of methadone and instead told plaintiff to take ibuprofen for his pain, his "viral load" increased and defendant Rock refused his requests to have it checked. In addition, plaintiff states that he is "literally unable to walk around the SCI recreation yard for 30 minutes or sit upright in a chair to use the computer for 30-60 minutes without experiencing excruciating pain." Aff. of Thomas Reimann, dkt. #72, at ¶ 8. Although the court is not unsympathetic to the pain plaintiff is experiencing, the fact

remains that nothing in his affidavit shows that the reductions ordered by defendant Rock are a blatantly inappropriate response to treat plaintiff's pain.

The closest petitioner comes to undermining the recommendations in Dr. Rudin's letter is his averment that defendant Rock "indicated he personally had me scheduled to see Dr. Rudin alleging Rudin is a 'friend of his' who also 'provides consultation to the [Wisconsin Department of Corrections] for treating chronic pain without using pain medication.'" Aff. of Thomas Reimann, dkt. #72, at ¶ 15. However, the fact that Dr. Rudin and defendant Rock are friends does not show that the recommendations made by Dr. Rudin or the reductions ordered by defendant Rock are blatantly inappropriate to treat plaintiff's pain.

As I noted in the May 9 order, Dr. Rudin's letter shows his agreement with defendant Rock's reduction in plaintiff's dosage of methadone. Because defendant Rock's action is 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 about the manner in which he is weaned off narcotic pain medications. Because this is insufficient to support an Eighth Amendment claim, it shows that plaintiff has little or no likelihood of success on his Eighth Amendment medical care claim against defendant Rock. Accordingly, IT IS ORDERED that plaintiff's motion for a preliminary injunction is

DENIED and the hearing scheduled for May 25, 2006 is CANCELED.

Entered this 18th day of May, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge