

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

JOSEPH VAN PATTEN,

Plaintiff,

MEMORANDUM

v.

06-C-374-C

MATTHEW FRANK,
JOSEPH LADWIG, WARDEN
DEPPISCH and DR. LUY,

Defendants.

Plaintiff Joseph Van Patten has filed a motion asking that Magistrate Judge Stephen Crocker recuse himself from further proceedings in this action because he believes that the magistrate judge's personal bias against plaintiff is revealed in his order of June 22, 2007. In particular, plaintiff believes that the magistrate judge's comment that his case is on life support suggests that he believes plaintiff cannot win his lawsuit.

Ordinarily, a motion to recuse is decided by the judicial officer against whom it is directed. In this case, however, there is no need for the magistrate judge to rule on plaintiff's motion, because his involvement in the case is limited to non-dispositive pretrial motions, and no such motions are presently before the court. Instead, the parties are briefing

defendants' motion for summary judgment. Once briefing of that motion is complete, I will decide whether either party is entitled to summary judgment and, if not, I will preside over the subsequent trial. Because the magistrate judge's role in this case may well be ended, plaintiff's motion to recuse will be placed in the court's file, but no action will be taken with respect to it. If either party were to file a discovery motion, which is the primary type of non-dispositive motion upon which the magistrate judge might rule, plaintiff may renew his motion for recusal at that time.

Entered this 13th day of July, 2007.

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