

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

DUJUAN M. WALKER,

Plaintiff,

v.

ORDER

GREGORY GRAMS, JANEL NICKEL, LIEUTENANT 06-C-386-S
STRUPP, SEAN SALTER, CAPTAIN ASHWORTH,
LIEUTENANT DURDIN, SERGEANT HART, TRAVIS
BITTELMAN, SANDRA SITZMAN, CAPTAIN JOHNSON,
LIEUTENANT BURKEBIL, OFFICER WIERSMA, OFFICER
NEUMAIER, C. DELONG, SERGEANT STROLL, NURSE NANCY,
NURSE STEVE, NURSE PAUL, MICHAEL W. VANDENBROOK,
JANET WALSH, KURT SCWEBKE, DR. SULIENE, LIEUTENANT
LIPINSKI, NURSE KIM and DANA DIEDRICH,

Defendants.

Upon receipt of plaintiff's partial filing fee in the amount of \$1.23, the Court addresses the merits of his initial complaint. According to 28 U.S.C. § 1915(b)(2), the institution's financial officer is authorized to deduct monthly payments from plaintiff's account until the \$350.00 filing fee is paid in full.

Plaintiff moves to amend the caption to add last names of defendants he names in his complaint. This motion will be granted. The defendants' names will be Nurse Nancy Hahnish, Nurse Steve Helgersen, Nurse Paul Persson and Nurse Kim Campbell.

Plaintiff alleges that on September 9, 2005 at the Columbia Correctional Institution, defendant Bittelman yanked on his

handcuff chain through his trap door for five minutes causing him harm. He alleges that defendants Hart, Durdin and Ashworth failed to properly supervise defendant Bittelman when he was doing this. Plaintiff will be allowed to proceed on an excessive force claim against defendants Bittelman, Hart, Durdin and Ashworth.

Plaintiff also alleges that he self mutilated because of his mental illness. He alleges that defendants Nancy Hahnish, Steve Helgersen, Paul Persson, Kim Campbell, Michael W. Vandenberg, Kurt Schwebke, Sandra Sitzman, Dr. Suliene and Dana Diedrich were deliberately indifferent to his serious mental health needs.

Allegations of deliberate indifference to an inmate's serious medical need state a cause of action under the Eighth Amendment. Estelle v. Gamble, 429 U.S. 97 (1976). It is possible that plaintiff could prove a set of facts that would support an Eighth Amendment claim against these defendants.

Plaintiff has not alleged facts that support claims against any of the remaining defendants. Accordingly, the remaining claims and defendants will be dismissed.

ORDER

IT IS ORDERED that plaintiff is allowed to proceed on his Eighth Amendment excessive force claim against defendants Travis Bittelman, Captain Ashworth, Lieutenant Durdin and Sergeant Hart.

IT IS FURTHER ORDERED that plaintiff is allowed to proceed on his Eighth Amendment deliberate indifference claim against Nancy Hahnish, Steve Helgersen, Paul Persson, Kim Campbell, Michael W. Vandenberg, Kurt Schwebke, Sandra Sitzman, Dr. Suliene and Dana Diedrich.

_____IT IS FURTHER ORDERED that the remaining claims and defendants are DISMISSED.

IT IS FURTHER ORDERED that plaintiff's motion to amend the complaint is GRANTED.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel is STAYED until a responsive pleading is filed.

The summons and complaint are being delivered to the United States Marshal for service upon defendants Travis Bittelman, Captain Ashworth, Lieutenant Durdin, Sergeant Hart Nancy Hahnish, Steve Helgersen, Paul Persson, Kim Campbell, Michael W. Vandenberg, Kurt Schwebke, Sandra Sitzman, Dr. Suliene and Dana Diedrich at the Columbia Correctional Institution, P.O. Box 900, Portage, Wisconsin, 53901-0900.

Entered this 1st day of August, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge