

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

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MARK D. MARSHALL,

Plaintiff,

v.

JANEL NICKEL; SEAN SALTER;  
GREG GRAMS, Warden at CCI;  
C/O JAMES; C/O T. BITTELMAN;  
C/O NEUMAIER, Medical Doctor SULIENE;  
ICE MARY LEISER; ICE BURT TAMMINGA;  
RN. NANCY HAHNISCH; LT. LIPINSKI;  
RN. SUE WARD; RN. LINDY MUCHOW;  
2nd Shift SGT. FINK; RN. KIM CAMBELL;  
MIKE VANDENBROOK; JANET WALSH; and  
Psychiatrist DANA DIEDRICH,

Defendants.

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ORDER

06-C-617-C

Plaintiff Mark D. Marshall has filed a document titled "Plaintiff's Motion to Compel This Prison to Adhere in Compliance with State, Federal Supreme Ct. Laws and Regulations per Wisc. S.S. 302.02(3M)(4)." In this document, plaintiff asks for an order directing prison officials at the Waupun Correctional Institution to refrain from collecting money from his prison account to repay institution legal loans. The motion will be denied.

Plaintiff complains that the state has no authority to take money deposited to his account for the purpose of repaying his legal loans. However, the question whether one or more of plaintiff's constitutional rights might be violated by this practice was not an issue raised in plaintiff's complaint in this lawsuit. Therefore, I cannot consider the question in the context of a motion filed within this lawsuit. If plaintiff wishes to pursue the matter, he will have to file a separate lawsuit challenging the practice, although I do not encourage him to do so.

As an initial matter, I note that there is no statute numbered 302.02(3M)(4) as shown in the title of plaintiff's motion. However, in Wolfe v. Litscher, 2003 WL 23218349, I considered the question whether a state prisoner has a property interest in the use of money deposited to his prison account. I ruled that he does not. Indeed, I found to the contrary that state law "almost compels appropriation of funds in prisoners' general account[s] to insure repayment of their loans." I noted that Wis. Stat. § 301.31 grants the Department of Corrections the authority to pay wages to prisoners and directs that the officers in charge of institutions maintain control of wages for the benefit of the prisoner, the prisoner's family and "other obligations specified in this section [§ 301]." The other obligations include charges for "some or all of the costs to the department of the prisoner's incarceration," Wis. Stat. § 301.325, and litigation loans, Wis. Stat. § 301.328. In the Wolfe case, I advised the prisoner that if he believed that prison officials were not following

the procedure established in Wis. Stat. § 301.328 before recovering unpaid legal loans, he was free to file an action in state court. Plaintiff Marshall might well benefit from the same advice.

ORDER

IT IS ORDERED that “Plaintiff’s Motion to Compel This Prison to Adhere in Compliance with State, Federal Supreme Ct. Laws and Regulations per Wisc. S.S. 302.02(3M)(4)” is DENIED.

Entered this 23d day of May, 2007.

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