IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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MARK RAHOI,

Plaintiff,

v.

DOCTOR SIRIN, DOCTOR HUIBREGTSE, and DOCTOR BURTON COX, JR., all sued individually and in their official capacities,

Defendants.

ORDER

06-C-691-C

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In this case, plaintiff Mark Rahoi is proceeding on claims that defendants Doctor Sirin, Doctor Huibregtse and Doctor Burton Cox, Jr. were deliberately indifferent to his serious medical needs when they failed to arrange for him to receive surgery for a rotator cuff tear and physical therapy for complications from spinal cord injuries and that defendants Huibretgtse and Cox were deliberately indifferent to his need for prescribed medication when they failed to insure that the prescriptions were timely renewed. Now before the court is plaintiff's second motion for a preliminary injunction.

Plaintiff's first motion was denied in an order dated March 21, 2007, because plaintiff did not submit evidence to show that he was entitled to emergency injunctive relief. In that

order, I explained the showings plaintiff would be required to make if he were to refile his motion for a preliminary injunction. In addition, I told plaintiff that if he intended to renew his motion, he would have to comply with this court's Procedure to be Followed on Motions for Injunctive Relief. I included a copy of the procedure to plaintiff with a copy of the March 21 order. I made it clear to plaintiff that a critical part of the procedure requires him to support a motion for preliminary injunction with proposed findings of fact, each of which is followed by reference to documentary evidence in the record that supports the factual proposition.

Oddly, despite this court's best efforts to instruct plaintiff in the procedure to be followed on motions for preliminary injunctive relief, plaintiff's second motion is as defective as his first. Plaintiff has submitted two documents, one titled "Motion for a Preliminary Injunction" and one titled "Declaration in Support of Plaintiff's Motion for a Preliminary Injunction," which is accompanied by several "exhibits." There is no separate document devoted to the facts, as the court's procedures require. True, there is a "facts" section in the body of plaintiff's motion, but it cannot be considered as a substitute for the proposed findings of fact required by the court's procedures, because the facts in the motion are not followed by citations to evidence in the record supporting them. There are additional factual propositions contained in plaintiff's "declaration. . . ," but again, the vast majority are not followed by a citation to supporting evidence. Where plaintiff does refer to an

"exhibit," the item is an unauthenticated copy of a paper of one sort or another which, because of the lack of authentication, is not acceptable as evidence.

Even apart from plaintiff's difficulties in complying with this court's procedures for seeking preliminary injunctive relief, he has a bigger problem. After reviewing plaintiff's motion for relief as well as previously submitted materials, I conclude that he has not made a showing that he is entitled to a preliminary injunction because his request for injunctive relief from defendants is moot.

To satisfy the Article III case or controversy requirement for requests for injunctive relief, it must appear that the injury about which the petitioner complains is continuing or that the petitioner is under an immediate threat that the injury complained of will be repeated. City of Los Angeles v. Lyons, 461 U.S. 95, 102 (1983) ("Past exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief . . . if unaccompanied by any continuing, present adverse effects."); Young v. Lane, 922 F.2d 370, 373-74 & n.8 (plaintiffs' requests for injunctive and declaratory relief regarding their exercise of religion are mooted by their transfer from institution where allegedly illegal restrictions took place without a strong showing that they are likely to be transferred back to that institution). A claim becomes moot when the issues presented are no longer live or the parties lack an interest in the outcome that the law recognizes as actionable. Murphy v. Hunt, 455 U.S. 478, 481 (1982); Stotts v. Community School Dist. No. 1, 230 F.3d 989,

990 (7th Cir. 2000).

Plaintiff is no longer housed at an institution where any of the defendants work, instead, he was moved to the Chippewa Valley Treatment Facility on July 26, 2007, two weeks before he filed the motion currently before the court. In their opposition to plaintiff's motion, defendants have adduced evidence that they do not provide medical services at the Chippewa Valley Treatment Facility. Therefore, none of them have continuing responsibility or authority to provide plaintiff with the injunctive relief he seeks; that is, a "plan of treatment" to be outlined by qualified specialists and carried out by defendants. As a result, although plaintiff may still pursue money damages against defendants for past harms, his request for injunctive relief is moot and motion for preliminary injunction must be denied.

Finally, even if plaintiff amended his complaint to name as a defendant a medical supervisor for the Wisconsin Department of Corrections who has been involved with his care at all institutions where he has been housed, or a member of the medical staff responsible for his care at his current institution, his request for a preliminary injunction would still be denied. Although plaintiff's request for injunctive relief would not be moot under those circumstances, there is no evidence in his request for a preliminary injunction that suggests that plaintiff would benefit at this late date from surgery for his torn rotator cuff or that he is being denied appropriate medical treatment at his current institution.

ORDER

IT IS ORDERED that plaintiff Mark Rahoi's motion for a preliminary injunction is DENIED because his request for injunctive relief is moot.

Entered this 21st day of September, 2007.

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