

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

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WARREN GAMEAL LILLY, JR.,

Petitioner,

v.

PAMELA WALLACE, Individually and as SCI Warden;  
MICHAEL McNEIL, Individually and as SCI  
Acting Director of Security; BECKY DRESSLER,  
Individually and as SCI Director of Health  
Services Unit; CAPTAIN JENSEN, Individually  
and as SCI Security Staff; LIEUTENANT BRAD  
LUNDMARK, Individually and as SCI Security Staff;  
OFFICER P. WALTER, Individually and as SCI  
Security Staff; OFFICER HAIDER, Individually  
and as SCI Security Staff; OFFICER WALIA,  
Individually and as SCI Security Staff; OFFICER  
TEMPSKI, Individually and as SCI Security Staff;  
OFFICER WILLIAMS, Individually and as SCI  
Security Staff; OFFICER GRIGGS, Individually and  
as SCI Security Staff; OFFICER JENKINS, Individually  
and as SCI Security Staff; SERGEANT TABER,  
Individually and as SCI Security Staff; SERGEANT  
KACZMAREK, Individually and as SCI Security Staff;  
FNP DAVID ROCK, Individually and as SCI  
Medical Staff; RN DEBRA ARNEVIK, Individually  
and as SCI Medical Staff; LPN BARB KRUMEANAUER,  
Individually and as SCI Medical Staff; and UNNAMED  
ACTORS, Individually and as SCI Staff,

Respondents.  
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ORDER

06-C-692-C

In an order entered on December 4, 2006, I denied petitioner's request for leave to proceed in forma pauperis on all but one claim raised in this proposed civil action, because petitioner is ineligible for in forma pauperis status under 28 U.S.C. § 1915(g). With respect to one claim, that is, petitioner's claim that he is presently being denied medical care for a serious medical need, I stayed the decision and told petitioner that he could have until December 22, 2006, in which to file an amended complaint raising his claim concerning his medical needs. I advised petitioner that, in the alternative, he could submit a check or money order made payable to the clerk of court in the amount of \$350 and I would screen his complaint in its entirety. Now petitioner has moved for an enlargement of time in which to file a new complaint or "paperwork offering proof of only two PLRA strikes."

Although I will grant petitioner an enlargement of time in which to submit a complaint limited to his medical care claim only, I have no intention of revising my ruling concerning his three-strike status. Petitioner suggests that he can get certification from the state of Wisconsin that he has only two strikes, but the state of Wisconsin's view of the number of strikes a petitioner has is not binding on a federal district court. In this case, I have counted three strikes against petitioner by applying the law of the Seventh Circuit. As I told petitioner in the December 4 order, under the holding of Boriboune v. Berge, 391 F.3d 852 (7th Cir. 2004)(when one petitioner's "action" in a group complaint warrants strike, all petitioners receive the strike), he has earned two strikes, and his third strike was recorded

in this court in Lilly v. Torhorst, 06-C-08-C. That means he must pay the filing fee for filing his next lawsuit or appeal unless the matter concerns a matter of imminent danger of serious physical injury.

ORDER

IT IS ORDERED that petitioner Warren Gameal Lilly, Jr. may have an enlargement of time to January 12, 2007, in which to file an amended complaint raising his claim concerning his medical needs claim or to submit a check or money order made payable to the clerk of court in the amount of \$350. If, by January 12, 2007, petitioner fails to pay the fee or submit a proposed amended complaint limited to his medical needs claim only, the clerk of court is directed to close this file. However, even in that event, the clerk of court is to insure that petitioner's obligation to pay the \$350 fee for filing this case is reflected in this court's financial records and that the warden of the Stanley Correctional Institution is advised of petitioner's obligation to pay the fee pursuant to 28 U.S.C. § 1915(b)(2).

Entered this 4th day of January, 2007.

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