

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

CORNELIUS R. MADDOX,

Plaintiff,

ORDER

v.

06-C-761-C

GERALD BERGE, JON E. LITSCHER,
PETER HUIBREGTSE, CAPT BLACKBOURN,
TRINA KOENING-SKIME; LT. GRONDIN;
LINDA HODDY-TRIPP, TIM HAINES, MR. MILES;
and KARLA STELPFLUG,¹

Defendants.

Plaintiff is proceeding pro se and in forma pauperis in this action on his claims that

a) defendants Gerald Berge and Jon E. Litscher violated plaintiff's Eighth Amendment rights by failing to allow him out-of-cell recreation;

b) defendants Berge and Litscher violated plaintiff's Eighth Amendment rights by

¹In their answer to plaintiff's complaint, defendants note that the defendants identified as Ms. T. Hanson and Mrs. Miles in the caption of plaintiff's complaint are now known as Trina Koenig-Skime and Karla Stelpflug, respectively. Therefore, I have amended the caption of this order to reflect those changes. The parties are requested to do likewise in all future filings.

subjecting him to 24-hour illumination in his cell;

c) defendant Captain Blackburn subjected plaintiff to unreasonable strip searches;

d) defendants Berge and Litscher violated plaintiff's First Amendment rights by depriving him of access to newspapers and magazines;

e) defendants Berge and Litscher substantially burdened plaintiff's ability to exercise his religion by denying him congregational religious services or an adequate alternative, in violation of the Religious Land Use and Institutionalized Persons Act and the First Amendment free exercise clause; and

f) defendants Peter Huibregtse, Trina Koenig-Skime, Lt. Grondin, Linda Hoddy-Tripp, Tim Haines, Mr. Miles, Karla Stelpflug, Gerald Berge and Jon Litscher retained plaintiff in administrative confinement in violation of the due process clause.

On May 10, 2007, defendants Berge, Litscher, Huibregtse, Blackburn and Haines, Koenig-Skime and Stelpflug moved for summary judgment, contending that plaintiff has failed to exhaust his administrative remedies with respect to each of his claims. In a briefing schedule dated May 11, 2007, plaintiff was directed to serve and file a response to the motion no later than June 11, 2007. Now before the court is plaintiff's motion for an enlargement of time in which to oppose the motion, which will be granted, despite plaintiff's failure to show good cause for his failure to meet the original deadline.

In his motion, plaintiff says that he has turned his litigation over to another, "more

legally knowledgeable prisoner,” who has agreed to assist him. Plaintiff suggests that as of June 6, 2007, when he signed the present motion, he had completed “affidavits and exhibits,” “his response to defendants’ proposed findings of fact,” and “his own proposed findings of fact.” However, he has not yet completed his brief, and believes an extension of 7 days’ time will allow him (or his assistant) to review relevant case law. Curiously, plaintiff did not submit with his motion any of the documents he states he has completed.

The decision whether to grant or deny defendants’ motion for summary judgment will turn entirely on evidence plaintiff has to prove that he utilized Wisconsin’s inmate grievance procedure to draw to the attention of corrections officials the very same issues he raises in his complaint in this court, so that those officials were given the first chance to remedy the alleged wrongs. Either plaintiff did or did not file the prerequisite inmate complaints and appeal any adverse decisions to the corrections complaint examiner and the Secretary of the Department of Corrections as the procedures require. If plaintiff did not exhaust his claims administratively, it is highly unlikely that any legal argument set forth in a brief will save the day. Nevertheless, because the extension plaintiff seeks is so short that his full submission should be served on defendants and filed with the court before the parties receive this order, I will grant the motion.

ORDER

IT IS ORDERED that plaintiff's motion for an enlargement of time to June 18, 2007, in which to oppose defendants' motion for summary judgment is GRANTED. Defendants may have until June 28, 2007, in which to serve and file a reply.

Entered this 12th day of June, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge