

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

COREY PALMS,

Plaintiff,

ORDER

v.

SANDRA SITZMAN, *et al.*

07-C-44-C

Defendants.

Before the court is defendants' motion to stay discovery regarding defendant Sandra Sitzman while her motion for summary judgment is being decided. *See* dkt. 22. Plaintiff opposes the motion. *See* dkt. 27. I am denying the motion, declining to stay discovery, and re-setting the summary judgment briefing schedule.

In previous orders, this court indicated to plaintiff that he would have the opportunity to take discovery in this case. *See, e.g.*, May 10, 2007 order, dkt. 19 at 2; April 25, 2007 order, dkt. 16, at 5-6. The court understands Sitzman's position on this issue, and it is unlikely that plaintiff will obtain any information from his discovery requests sufficient to establish a triable dispute on his Eighth Amendment claim against Sitzman. But the court did grant plaintiff leave to proceed and it cannot simply presume that discovery is unnecessary because it's likely to be pointless. Plaintiff is entitled to at least the *opportunity* to obtain discovery attempting to create a material factual dispute as to Sitzman's version of events.

In his opposition to defendants' motion, plaintiff reports that he has submitted "some interrogatories and a set of production of documents." Dkt. 27 at 1-2. Considering that this

issue has been incubating for a month, let's try to resolve it promptly now: defendants should provide the requested discovery as soon as practical but not later than August 31, 2007, with a copy of the cover letter to the court to show the service date.¹

Plaintiff shall have 21 days after receipt of this discovery within which to put into the mail stream his complete response to Sitzman's motion for summary judgment. Three weeks should be more than enough time to respond because the issue and the relevant facts are narrow and simple, and plaintiff will have time between now and service of the discovery responses to pre-draft his response, if he has not done so already. Sitzman may have the usual 10 days to reply.

Entered this 14th day of August, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge

¹ The court will presume that plaintiff received the discovery three mailing days after posting, *i.e.*, excluding Sundays and postal holiday.