

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

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WAR N. MARION,

Petitioner,

ORDER

v.

07-C-243-C

COLUMBIA CORRECTIONAL INSTITUTION,  
WARDEN GREGORY GRAMS,  
DEPUTY WARDEN MARC CLEMENTS,  
CAPTAIN LESLY WINSLOW-STANLEY,  
C.O. GREGORY GARRISON,  
CAPTAIN DYLAN RADTKE,  
SUPERVISOR JANEL NICHOLS,  
ADVOCATE MARY PEISER,  
PSYCHOLOGIST ANDREA NELSON, and  
LT. KELLER,

Respondents.  
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Petitioner moves for reconsideration of the June 8, 2007 order dismissing his claim that respondents violated his right to due process in the context of a disciplinary proceeding. I construe his motion as one to alter or amend the judgment under Fed. R. Civ. P. 59.

In the June 8 order, I concluded that petitioner failed to state a claim upon which relief may be granted because the discipline petitioner received, segregation time, did not trigger a requirement to provide due process, as held by the Supreme Court in Sandin v. Conner, 515 U.S. 472, 484 (1995). In support of his motion, petitioner says that the court misconstrued his complaint by failing to note that he was already in segregated confinement

at the time he received additional segregation time. He argues that he meets the requirements of Sandin because he suffered an “increase in the duration of segregation confinement.”

Unfortunately, petitioner appears to misunderstand the holding in Sandin. The Court did not hold that prisoners are entitled to process when segregation time is increased, but only when a prisoner’s *time in prison* increases. In other words, respondents would have been required to provide petitioner with process if they had pushed his release date back. Because petitioner’s release date remains the same, his argument fails.

Petitioner raises another argument related to interference with legal mail, but this claim was not included in his complaint. If petitioner believes that his right of access to the courts has been violated, he must file a new lawsuit.

Although I am required to inform petitioner that he has 30 days from the date of this order in which to file a notice of appeal, I do not intend to imply that petitioner should file an appeal. In deciding whether to pursue an appeal, petitioner should be aware that he will owe the \$455 fee for filing an appeal under the 1996 Prison Litigation Reform Act and, if the court certifies that his appeal is not taken in good faith, he will not be eligible to proceed in forma pauperis on appeal but rather, will have to pay the fee in full immediately.

#### ORDER

IT IS ORDERED that petitioner’s motion to alter or amend the judgment is DENIED. Petitioner has 30 days from the date of this order in which to file a notice of

appeal.

Entered this 18th day of June, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge