

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

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TAYR KILAAB AL GHASHIYAH (KHAN),  
f/n/a JOHN CASTEEL,

Plaintiff,

ORDER

v.

07-C-308-C

MATTHEW FRANK, RICHARD SCHNEITER,  
CHRISTINE BEERKIRCHER, JAILOR A. JONES,  
GERALD KONDOZ, JAILOR SHARPE,  
JAILOR HANFIELD, JAILOR PRIMMER,  
JAILOR MICKELSON, JAILOR ESSER,  
JAILOR SCULLION, JAILOR BEARCE,  
JOHN McDONALD, JOHN POLINSKE,

Defendants.

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In this case, plaintiff Tayr Kilaab al Ghashiyah is proceeding in forma pauperis and pro se on numerous claims. In particular, plaintiff is proceeding on claims that

1) Defendants Gerald Kondozi, John Polinske and John McDonald failed to provide plaintiff with due process in conjunction with his transfer to the Wisconsin Secure Program Facility;

2) Defendants Gerald Kondozi, Matthew Frank, Richard Schneider and Christine

Beerkircher prohibited plaintiff from using his religious name on his grievances, in violation of his right to free exercise of religion under the First Amendment and the Religious Land Use and Institutionalized Persons Act, his right of access to the courts, his right to petition the government for redress of grievances and his right to equal protection of the law;

3) Defendant Taylor conducted a manual inspection of plaintiff's anus and genitals without giving him a chance to comply with a visual inspection; defendants Sharpe and Primmer ordered this inspection; defendants Jones, Bearce, Esser and Scullion were present but failed to intervene; and defendants Frank and Schneiter caused the other defendants' conduct by failing to train them, in violation of the Fourth and Eighth Amendments;

4) Defendants Esser and Scullion beat plaintiff during with strip search; defendants Sharpe, Primmer, Taylor, Bearce and Jones were present but failed to intervene; defendants Frank and Schneiter caused the other defendants' conduct by failing to train them, in violation of the Eighth Amendment;

5) Defendants Taylor, Jones, Bearce, Esser, Scullion, Sharpe and Primmer subjected plaintiff to a strip search in front of other prisoners; defendants Frank and Schneiter caused the other defendants' conduct by failing to train them, in violation of the Fourth and Eighth Amendments; and

6) Defendants Sharpe, Hanfield, Primmer and Mickelson placed plaintiff in a cold cell, naked and without access to a bathroom or toilet for several hours, in violation of the

Eighth Amendment.

In an order dated August 1, 2007, I denied plaintiff's first motion for appointment of counsel as premature, because he had not made a showing that he had made reasonable efforts to find a lawyer on his own and had been unsuccessful or that he had been prevented from making such efforts. Jackson v. County of McLean, 953 F.2d 1070 (7th Cir. 1992). In addition, I cautioned plaintiff that even if he was unsuccessful in finding a lawyer on his own, he would qualify for appointed counsel only if I found that he was unable to represent himself given the legal difficulty of the case, and that having a lawyer would make a difference in the outcome of his lawsuit. Zarnes v. Rhodes, 64 F.3d 285 (7th Cir. 1995) (citing Farmer v. Haas, 990 F.2d 319, 322 (7th Cir. 1993)).

Now, just three weeks later, plaintiff has moved for reconsideration of the decision to deny his motion for appointment of counsel. In support of the motion, plaintiff provides the court with the names of four lawyers who have declined to represent him in this case. Nevertheless, this case remains far too new to allow the court to evaluate plaintiff's abilities or the likely outcome of the lawsuit. Defendants have not even had an opportunity to respond to plaintiff's complaint. It is possible that they will seek dismissal of certain of plaintiff's claims for his failure to exhaust administrative remedies or advance other affirmative defenses that will ultimately narrow the issues to be decided in this case. Because it is still too early to decide whether plaintiff possesses the skill to litigate this case on his

own or whether a lawyer would make a difference in the outcome of the case, I will deny plaintiff's motion for reconsideration.

ORDER

IT IS ORDERED that plaintiff's motion for reconsideration of this court's order of August 1, 2007, denying his motion for appointment of counsel is DENIED.

Entered this 24th day of August, 2007.

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