

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

DON L. HERLITZ,

Plaintiff,

v.

ORDER

WISCONSIN DEPARTMENT OF CORRECTIONS,
RICK RAEMISCH, TOM GOZINSKE, WARDEN HEPP,
MRS. DERUS, SGT. HAGLAN, MS. MAASEN, JODI
DOUGHERTY, SHARON ZUNKER, DR. ADLER, CAPTAIN
MUSHAK, LT. JOHNSON, NURSE STACY, SERGEANT
BROWN, OFFICER SIMONSON and OFFICER
ERICKSON,

07-C-444-S

Defendants.

Upon receipt of plaintiff's partial filing fee in the amount of \$16.18, the Court addresses the merits of plaintiff's complaint. According to 28 U.S.C. § 1915(b)(2), the institution's financial officer is authorized to deduct monthly payments from plaintiff's account until the \$350.00 filing fee is paid in full.

Plaintiff alleges that he is an inmate at the Jackson Correctional Institution, Black River Falls, Wisconsin and that he injured his ankle on June 5, 2007. Plaintiff further alleges that he was seen by a nurse at the institution the next day. He further alleges that he was seen by Dr. Adler on July 5, 2007 who placed a cast on his foot. He further alleges that he was treated at the hospital for an infection of his foot on July 8, 2007.

Plaintiff does not agree with the treatment he has received. He disagrees with the lifting of his lower bunk restriction on June 26, 2007 and with the decision not to provide him crutches or a cane when he returned from his first hospital visit.

Allegations of deliberate indifference to a serious medical need state a cause of action under the Eighth Amendment. Estelle v. Gamble, 429 U.S. 97 (1976). Allegations of disagreements with medical treatment do not rise to the level of an Eighth Amendment violation.

Plaintiff received treatment for his injured ankle at the institution and received treatment twice at a local hospital. He has not alleged facts that support a claim that any of the named defendants were deliberately indifferent to his injured ankle. Accordingly, plaintiff's complaint must be dismissed for failure to state a claim under federal law.

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED that plaintiff's complaint and all claims contained therein is DISMISSED without prejudice.

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IT IS FURTHER ORDERED that judgment be entered DISMISSING plaintiff's complaint and all claims contained therein without prejudice.

Entered this 21st day of August 2007.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge