

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

ROBBE B. MILLER,

Plaintiff,

v.

ORDER

WISCONSIN DEPARTMENT OF CORRECTIONS,
DR. ADLER, TAMMY MAASEN,
DAVID BURNETT, SHARON
ZUNKER and JAMES GREER,

08-cv-62-bbc

Defendants.

A hearing on plaintiff Robbe Miller's motion for a preliminary injunction was held in this case on October 1, 2008 before United States District Judge Barbara B. Crabb. Plaintiff appeared in person without counsel. Defendants were represented by Monica Burkert-Brist and Joseph Ganzer, both Assistant Attorneys General for the State of Wisconsin.

After hearing the evidence, I found that plaintiff had shown no possibility of prevailing ultimately on his claim that defendants were deliberately indifferent to his claims of severe pain. Plaintiff contends that they are indifferent because they have not taken him

to a specialist for examination of his degenerative spine and his knee problems and because Dr. Cox refuses to prescribe opiate pain medication for his unrelenting pain. The unrefuted evidence is that plaintiff is scheduled to see a specialist at the University of Wisconsin Hospitals and has been given one MRI and is scheduled for another one in the near future.

Although plaintiff has not been given the opiate pain medication he thinks he needs for his pain, Dr. Cox explained that such medicine would not be appropriate for plaintiff, in light of his history of cocaine addiction and his hepatitis C condition, which makes it difficult for him to metabolize opiate medications. It is not necessary for me to decide whether Dr. Cox's approach is the best one for plaintiff or whether another doctor might disagree with him; it is clear that Cox is not being deliberately indifferent to plaintiff's severe pain.

Having concluded that plaintiff had not shown that he had any chance of prevailing on his claims against defendants, I did not consider the other factors that he would have to prove in order to obtain an injunction against them.

Entered this 3d day of October, 2008.

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