

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

CHARLES NORWOOD,

Plaintiff,

v.

MIKE THURMER, DON STRAHOTA, C.O. BEAHM,
C.O. WOODS, C.O. TRITT, C.O. GORSKE,
CAPT. O'DONOVAN, LT. BRAEMER,
DR. ANKARLO, C.O. RUSSELL and
other JANE or JOHN DOES in command center,

Defendants.

ORDER

09-cv-738-bbc

Plaintiff Charles Norwood is proceeding in this action under the imminent danger exception to 28 U.S.C. § 1915(g) on his claim that defendants are failing to protect him from self harm. Defendants answered the complaint and a preliminary pretrial conference was held on June 9, 2010 before the magistrate judge. Now plaintiff has moved for permission to dismiss his case voluntarily.

When a motion for voluntary dismissal is filed after the defendants have filed an answer, Rule 41 (a)(2) provides that the action may be dismissed by the plaintiff "only upon order of the court and upon such terms and conditions as the court deems proper." Because defendants have been required to defend this action, I will grant plaintiff's motion for

voluntary dismissal only on the condition that the dismissal is with prejudice. This means that the order dismissing the case will serve as a judgment on the merits in favor of defendants.

Plaintiff has two options.

(1) If he does not want to prosecute this case any longer, he can do nothing. In that event, the suit will be dismissed with prejudice. (“With prejudice” means that plaintiff can never bring the same claims against the same defendants); or

(2) If he objects to a dismissal of his case with prejudice, he may have until July 20, 2010, to write to the court to withdraw his motion for voluntary dismissal.

ORDER

IT IS ORDERED that plaintiff may have until July 20, 2010, in which to withdraw his motion for voluntary dismissal. If, by July 20, 2010, plaintiff fails to advise the court that he is withdrawing his notice of voluntary dismissal, the clerk of court is directed to enter judgment dismissing this case with prejudice.

Entered this 8th day of July, 2010.

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