

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

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RANDY McCAA,

Plaintiff,

v.

MICHAEL MEISNER, JANEL NICKEL,  
D. MORGAN, BRIAN FRANSON,  
TONY ASHWORTH, LT. SABISH,  
DR. LESLIE BAIRD, DR. PATRICK KUMKE,  
SGT. MILLONIG, JR., C.O. T. BITTELMAN,  
CO. D. NEWMAIER, C.O. RATA CZAK,  
C.O. EBERT and JOHN DOE,

Defendants.  
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ORDER

12-cv-61-bbc

Pro se plaintiff Randy McCaa is proceeding on various claims that prison officials violated his Eighth Amendment rights by failing to provide him adequate mental health care and then, when he engaged in acts of self harm, failing to provide him medical care for his physical injuries. Plaintiff has filed a motion for a preliminary injunction, dkt. #17, which is ready for review.

It is not clear from plaintiff's motion why he believes he is entitled to relief or even what relief he is requesting. Most of his three-page brief is devoted to reciting the standard for an Eighth Amendment claim and summarizing acts of self harm from May and June 2011 in which he ingested objects such as deodorant and a pen. In the last paragraph of his brief,

plaintiff says that he is threatened with “unknown continue[d] irreparable harm.” The only specific relief suggested is in the last sentence, in which he says, “[i]f the plaintiff [doesn’t] receive a proper stomach assessment of his stomach to assess for damage areas at a proper time, it may be fatal the next time he congest any more objects.”

To the extent plaintiff is seeking additional medical treatment for his stomach, that request must be denied for two reasons. First, plaintiff is proceeding on claims that certain defendants failed to provide medical care *at the time he harmed himself in 2011*. I did not construe his complaint as including a claim that any prison officials are refusing to provide care that he needs for physical injuries that he is experiencing *now*. Thus, plaintiff’s request is outside the scope of this case. Second, plaintiff has adduced no evidence or even made any allegations suggesting that he needs additional treatment for any physical injuries he suffered in the past. In his motion, he does not identify any physical symptoms he continues to experience or any reason to believe that his health is in immediate danger.

In his proposed findings of fact, plaintiff says that he is “at risk of seriously harming or killing himself in the near future.” Plt.’s PFOF ¶ 7, dkt. #19. To the extent plaintiff is seeking some form of court intervention to prevent further acts of self harm, I cannot grant that request either. To begin with, plaintiff does not identify what he wants the court to do. Further, plaintiff’s only support for the statement in his proposed findings of fact is a “psychological services request” dated October 31, 2011, in which plaintiff says that he is “having trouble adjusting back to these type of confinements and thinking about going back in obs” and he asks to be seen by psychology staff “as soon as possible.” In response,

someone named T. McLaren (not a defendant) told plaintiff that he would forward plaintiff's request to the doctor and encouraged plaintiff to "continue using [his] coping skills and reading the depression materials" McLaren had given him. Dkt. #7-2. That document does not show that plaintiff needs emergency injunctive relief.

Because plaintiff has not made any showing that he will succeed on his claim or that he will suffer irreparable harm, I cannot grant his motion for a preliminary injunction. However, I encourage plaintiff to continue working with mental health staff to control his depression and I encourage defendants to monitor plaintiff's situation carefully and take any appropriate action if plaintiff's symptoms become acute.

#### ORDER

IT IS ORDERED that plaintiff Randy McCaa's motion for a preliminary injunction, dkt. #17, is DENIED.

Entered this 30th day of May, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge