

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

JERRY LEE LEWIS,

Plaintiff,

v.

DANE ESSER, JUSTIN PEAK,
JASON GODFREY and JOHN DOE,

Defendants.

MEMORANDUM

14-cv-40-bbc

Pro se prisoner Jerry Lee Lewis is proceeding on claims that several correctional officers violated his Eighth Amendment rights by forcing him to walk in restraints that were too small for his body and using excessive force against him when he failed to comply with orders to stand and walk while wearing the restraints. Originally, Dane Esser was the only named defendant. Plaintiff said that he did not know the names of the other officers involved, so plaintiff conducted discovery to find out who they are. In an order dated November 20, 2014, I granted plaintiff's motion to name the last of the three John Doe defendants. Dkt. #56.

Now plaintiff has filed a document that he calls "Plaintiff Seeks Clarification on Scheduling Order," in which he asks whether the court is revising the schedule because of delays he experienced in getting the names of the John Does. In addition, he asks whether he can "start his [Fed. R. Civ. P.] 26 discovery request[s]." Dkt. #58.

With respect to the plaintiff's first question, I see no reason to change the schedule at this time. Plaintiff has not identified any reason to believe that he cannot obtain whatever discovery he needs within the current schedule. If plaintiff is unable to complete his discovery before the deadline, he may ask for additional time then if he has good cause.

Plaintiff's second question is unclear because he seems to be assuming that he needs court permission to conduct discovery. However, plaintiff was free to engage in discovery after Magistrate Judge Stephen Crocker issued his preliminary pretrial conference order on April 30, 2014. I see nothing in that order requiring plaintiff to wait until all the defendants were identified. Of course, plaintiff could not obtain discovery from an unnamed defendant, but he could have submitted discovery requests to those defendants previously identified. In any event, plaintiff does not need court permission to conduct discovery now.

Entered this 10th day of December, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge