

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

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TOMMIE L. CARTER,

Plaintiff,

v.

PATRICK C. HOOPER and BRENT H. EXNER,

Defendants.  
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OPINION AND ORDER

16-cv-54-bbc

Pro se prisoner Tommie Carter has filed a complaint under 42 U.S.C. § 1983 in which he alleges that defendants Patrick Hooper and Brent Exner (both correctional officers at the Columbia Correctional Institution) used excessive force against him on February 28, 2013, in violation of the Eighth Amendment. In particular, plaintiff says that defendants attempted to break his wrists while they were removing his restraints after returning him to his cell. Plaintiff has made an initial partial payment of the filing fee in accordance with 28 U.S.C. § 1915(b)(1), so his claim is ready for screening under 28 U.S.C. §§ 1915 and 1915A. Having reviewed the complaint, I conclude that plaintiff has stated a claim upon which relief may be granted against defendants.

Claims for excessive force in the prison context are governed by the Eighth Amendment. In determining whether an officer has used excessive force against a prisoner, the question is “whether force was applied in a good faith effort to maintain or restore

discipline or maliciously and sadistically for the very purpose of causing harm.” Whitley v. Albers, 475 U.S. 312, 320 (1986). The factors relevant to making this determination include:

- ▶ the need for the application of force
- ▶ the relationship between the need and the amount of force that was used
- ▶ the extent of injury inflicted
- ▶ the extent of the threat to the safety of staff and inmates, as reasonably perceived by the responsible officials on the basis of the facts known to them
- ▶ any efforts made to temper the severity of a forceful response.

Id. at 321. In Hudson v. McMillan, 503 U.S. 1, 9-10 (1992), the Court refined this standard, explaining that the extent of injury inflicted was one factor to be considered, but the absence of a significant injury did not bar a claim for excessive force so long as the officers used more than a minimal amount of force. Similarly, the Court of Appeals for the Seventh Circuit has cautioned district courts not to dismiss claims simply because the defendant used a small amount of force; rather, the court must consider all of the relevant factors. Washington v. Hively, 695 F.3d 641, 642-43 (7th Cir. 2012).

In this case, plaintiff alleges that defendants “attempt[ed] to break his wrists” by “excessively pull[ing] and yank[ing] on the tether restraint strap” while plaintiff was still bound. As a result, plaintiff says, he suffered “lacerations to his wrists and numerous cuts, bruises and abrasions and swelling and bleeding to both of his wrists.”

These allegations are sufficient to state a claim upon which relief may be granted. At

summary judgment or trial, plaintiff will have to come forward with admissible evidence showing that both defendants acted for the purpose of harming him.

## ORDER

IT IS ORDERED that

1. Plaintiff Tommie L. Carter is GRANTED leave to proceed on his claim that defendants Patrick Hooper and Brent Exner used excessive force against him on February 28, 2013, while removing plaintiff's restraints.

2. Pursuant to an informal service agreement between the Wisconsin Department of Justice and this court, copies of plaintiff's complaint and this order are being sent today to the Attorney General for service on the defendants. Under the agreement, the Department of Justice will have 40 days from the date of the Notice of Electronic Filing of this order to answer or otherwise plead to plaintiff's complaint if it accepts service for the defendants.

3. For the time being, plaintiff must send defendants a copy of every paper or document he files with the court. Once plaintiff has learned what lawyer will be representing defendants, he should serve the lawyer directly rather than defendants. The court will disregard any documents submitted by plaintiff unless plaintiff shows on the court's copy that he has sent a copy to defendants or their attorney.

4. Plaintiff should keep a copy of all documents for his own files. If plaintiff does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents.

5. If plaintiff is transferred or released while this case is pending, it is his obligation to inform the court of his new address. If he fails to do this and defendants or the court are unable to locate him, his case may be dismissed for failure to prosecute.

Entered this 8th day of March, 2016.

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