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

JOHNATHAN FRANKLIN,

Plaintiff,

v.

JOAN HANNULA, et al.,

Defendants.

OPINION AND ORDER

17-cv-562-wmc

Pro se plaintiff Johnathan Franklin, a prisoner at Stanley Correctional Institution ("Stanley"), originally filed this lawsuit in the Eastern District of Wisconsin. The lawsuit was transferred to this court on July 19, 2017. (Dkt. #17.) Invoking 42 U.S.C. § 1983, Franklin seeks to bring Eighth Amendment and state law claims against several Stanley employees related to their alleged failure to ensure that he received proper orthotic shoes. Since filing his complaint, Franklin has also filed several motions, but before this lawsuit can proceed, this court must screen his claims as required under 28 U.S.C. § 1915A. For the reasons that follow, the court will deny Franklin's other motions at this point, but grant him leave to proceed against two defendants on his deliberate indifference and state law negligence claims.

ALLEGATIONS OF FACT

As an initial matter, Franklin has filed a motion to amend his original complaint (dkt. #14), along with multiple supplements to that complaint (dkt. ##16, 22, 23). While the court will grant that motion and construe Franklin's original complaint and supplements as an amended pleading for purposes of screening, Franklin's practice of

submitting supplements must stop.[1] For purposes of this opinion then, the court assumes the following facts are true based on the allegations in plaintiff's complaint and supplements, as viewed in a light most favorable to Franklin. *Perez v. Fenoglio*, 792 F.3d 768, 774 (7th Cir. 2015).

I. Parties

Franklin was incarcerated at Stanley during the relevant time period. Similarly, among the defendants that Franklin lists as working at Stanley are: Dr. Joan Hannula, nurse practitioner Bentley; Health Service Unit ("HSU") manager Jamie Barker; Deputy Warden Mario Canziani; Captain Kasten; Captain Lundmark; Sergeant Mason; the special needs committee; Inmate Complaint Examiner ("ICE") Hickey; and L. Becher. Franklin also names as a defendant Winkley Orthopedics & Prosthetics ("Winkley"), apparently an offsite orthotic provider.

II. Franklin's footwear needs

Franklin suffers from bilateral pes planus (flat feet), which is worse in his left foot. He alleges that for multiple years doctors have recommended that he use orthotic and cushioned shoes, specifically air sole shoes. When he arrived at Stanley in 2012, Franklin possessed Nike Air Max All Conditions Gear ("ACG") boots, but those shoes were confiscated, presumably as non-standard. Shortly after his arrival at Stanley, therefore,

[1] Filing supplements to a complaint is not an appropriate way to amend it, and makes it very difficult for defendants to respond. Accordingly, the court will not consider any additional "supplements" filed after the date of this order to be a part of the operative complaint. Rather, if Franklin wishes to amend his complaint again, he must do so in accordance with Federal Rule of Civil Procedure 15 by filing a motion to amend with a proposed stand-alone, amended complaint that supersedes his pending complaint and supplements.

Franklin visited the HSU to assess his footwear needs. After attending multiple off-site appointments to Winkley, he was prescribed three or four different ankle-foot orthosis ("AFO") braces meant to be attached to the bottom of his feet. However, Franklin claims that the AFO's were the wrong type of orthotic for him, and he developed large skin lesions and has suffered foot, ankle, knee, hip and back pain.

Franklin's allegations are, for the most part, general complaints about the HSU staff's refusal to provide him with the orthotic and cushioned shoes needed, but he also alleges more specifically that on August 26, 2016, Dr. Hannula discontinued the orthopedic work boot and AFO altogether. At that point, Franklin alleges Stanley's HSU Manager, Jamie Barker, provided him state-issued boots, and Sergeant Mason required him to wear them. The state-issued boots caused his feet to ache, swell and bleed, and so Franklin was sent again to Winkley on September 26, 2016, who provided insoles for his state-issued boots. Franklin claims that on another occasion when he was in the HSU, Barker told him that she would battle him about his requests for different shoes.

As for Franklin's general allegations against Stanley staff who ignored his complaints of pain and requests for accommodations, he claims that defendant Bentley told Franklin "you have a lot of time" and that HSU staff would not keep treating him for his feet issues. Franklin further alleges that he submitted a request for different footwear with Stanley Warden Richardson, who told him that Captain Lundmark would help him, but that Lundmark failed to do so.

III. Franklin's off-site visits

In his supplements, Franklin alleges subsequent developments related to his

footwear. On March 22, 2017, he was transported off-site to LaCrosse-Gunderson Hospital for an appointment with a podiatrist, Dr. Elliot. According to the record of that visit, Franklin brought along two pairs of custom AFO's, one of which was "gauntlet style." (Dkr. #16, at 8.) Dr. Elliot noted Franklin's complaint that the gauntlet style shoe caused him sores, that he felt his over-the-counter orthotics and AFO's have not helped with his pain, and that Franklin said he needed lace-up boots for the pain. In the treatment plan, Dr. Elliot wrote that Franklin appeared to be having some tibial tendon dysfunction, and that Franklin should use his orthotics, avoid barefoot walking, use ice and elevation, and return to AFO if that approach did not work. (Dkt. #16, at 10.)

On May 9, 2017, Dr. Elliot examined Franklin again, noting that Franklin arrived wearing Airmax shoes with "modified over-the-counter inserts." Franklin reported that he felt that those shoes helped his condition, and complained about a callus. In the treatment plan, Dr. Elliot wrote: "As patient's condition seems to have improved with his current high-top sneakers, I have no problem with him wearing these. He will continue to wear his modified over-the-counter orthotics with build-up to the medial arch." (Dkt. #16, at 5.)

IV. Franklin's grievances

Franklin also attaches copies of his multiple inmate complaints related to his requests for different shoes. First, Franklin filed SCI-2016-14693 on July 14, 2016, in which he complained that HSU refused to follow specialist recommendations for orthotics and air cushion shoes. Inmate Complaint Examiner Hickey recommended dismissal of that complaint because: (1) HSU Manager Barker stated that Franklin's state-issued boots

had orthotics specially made for his boots; and (2) Franklin was scheduled for an off-site visit so that new orthotics could be fitted for those boots. That inmate complaint was subsequently dismissed, and his appeal was denied.

Next, Franklin filed SCI-2016-19919, in which he complained that his pre-approved shoes were denied, and he needed the shoes. Examiner Hickey also dismissed that complaint because the personal shoes (Nike Air Max from Finish Line) that Franklin ordered were not from an approved vendor. Additionally, the shoes cost $116.06, which exceeded the $75 maximum for individual items set forth in DAI Policy 309.20.03.

Finally, Franklin attaches a letter that he received from Becher, dated September 7, 2017, responding to a complaint Franklin submitted to the DOC's Bureau of Health Services. In the letter, Becher acknowledges Franklin's complaint about his shoes being confiscated, which had been addressed in a previous grievance proceeding. (Dkt. #21-1.) Becher then encouraged Franklin to work with the health care providers at his institution, while stating that the DOC would not be investigating his shoe complaints further.

OPINION

As noted at the outset, the court understands plaintiff to be seeking leave to proceed on an Eighth Amendment deliberate indifference claim, as well as negligence and medical malpractice claims under Wisconsin law.

I. Deliberate Indifference

As an initial matter, the court will dismiss the orthotics provider, Winkley, as a defendant to plaintiff's deliberate indifference claim. Section 1983 provides a private right

of action for damages to individuals who are deprived of "any rights, privileges, or immunities" protected by the Constitution or federal law by any person acting under the color of state law. As such, "the [constitutional] deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the state or by a person for whom the State is responsible . . . [and] the party charged with the deprivation must be a person who may fairly be said to be a state actor." *Lugar v. Edmondson Oil Co., Inc*., 457 U.S. 922, 937 (1982). Private entities can be held liable as government actors only to the extent that: (1) the government "effectively directs or controls the actions of the private party such that the state can be held responsible for the private party's decision"; or 2) the government delegates a public function to the private party. *Payton v. Rush-Presbyterian-St. Luke's Med. Center*, 184 F.3d 623, 628 (7th Cir. 1999).

Here, plaintiff allegations suggest neither that the government controlled Winkley's actions, nor that the government delegated Winkley with a public function. Rather, it simply appears that the government used Winkley to obtain custom-fitting orthotics for plaintiff. That type of relationship is insufficient to permit plaintiff to recover from Winkley under § 1983. Moreover, even assuming that Winkley's services could be interpreted to be providing medical-care, private medical care givers "are consistently held not to be state actors." *Ridlen v. Four County Counseling Center*, 809 F.Supp. 1343, 1349 (N.D. Ind. 1992); *Ezpeleta v. Sisters of Mercy Health Corp*., 800 F.2d 199 (7th Cir.1986) (private hospital's termination of staff privileges not state action); *Tunca v. Lutheran General Hospital*, 844 F.2d 411 (7th Cir. 1988) (private hospital's denial of staff privileges not state action).

As for the remaining defendants, a prison official may violate the Eighth Amendment if the official is "deliberately indifferent" to a "serious medical need." *Estelle v. Gamble*, 429 U.S. 97, 104-05 (1976). "Serious medical needs" include: (1) conditions that are life-threatening or that carry risk of permanent serious impairment if left untreated; (2) withholding of medical care that results in needless pain and suffering; or (3) conditions that have been "diagnosed by a physician as mandating treatment." *Gutierrez v. Peters*, 111 F.3d 1364, 1371 (7th Cir. 1997). "Deliberate indifference" means that the officials are aware that the prisoner needs medical treatment and disregarded the risk by consciously failing to take reasonable measures. *Forbes v. Edgar*, 112 F.3d 262, 266 (7th Cir. 1997). Allegations of delayed care, even a delay of just a few days, may violate the Eighth Amendment if the delay caused the inmate's condition to worsen or unnecessarily prolonged his pain. *McGowan v. Hulick*, 612 F.3d 636, 640 (7th Cir. 2010) ("[T]he length of delay that is tolerable depends on the seriousness of the condition and the ease of providing treatment.") (citations omitted); *Smith v. Knox County Jail*, 666 F.3d 1037, 1039-40 (7th Cir. 2012); *Gonzalez v. Feinerman*, 663 F.3d 311, 314 (7th Cir. 2011).

Here, plaintiff's allegations about the severity of his foot pain, coupled with the medical records reflecting the ongoing treatment and specialized footwear he has received, are sufficient to permit an inference that he was suffering from a serious medical need in 2016 and 2017. *See Wheeler v. Wexford Health Servs., Inc.*, 689 F.3d 680, 682 (7th Cir. 2012) (recognizing "severe ongoing pain" as sufficient to plead a serious medical need). As a result, plaintiff's Eighth Amendment claim requires proof of three additional elements:

1. Did plaintiff objectively need medical treatment?

2. Did defendants know that plaintiff needed treatment?
3. Despite their awareness of the need, did defendants consciously fail to take reasonable measures to provide the necessary treatment?

Since the answer to that question turns in part on whether the defendant has medical training or not, the court will separate the allegations against defendants in these two categories.

A. Medical Defendants

Plaintiff seeks to proceed against Dr. Hannula, HSU manager Barker, NP Bentley, and Becher. With respect to Dr. Hannula's August 2016 decision to discontinue plaintiff's orthopedic work boot and AFO's, it is reasonable to infer that Dr. Hannula knew that plaintiff's foot problems were severe. At least as the facts are pleaded, one might reasonably infer that Dr. Hannula had no medical basis to discontinue plaintiff's more supportive work boots. Indeed, plaintiff alleges that he immediately suffered swelling and bleeding as a result of the change to state-issued boots, which supports an inference that Dr. Hannula's decision constituted gross negligence and, perhaps, deliberate indifference. Although the actual facts of record may preclude either inference, at this early stage, it would not be unreasonable to infer that the decision exhibited deliberate indifference, and the court will grant plaintiff leave to proceed against Dr. Hannula beyond the screening stage. A similar inference can be made with respect to HSU Manager Barker, at least to the extent Barber allegedly ignored plaintiff's objections to the change and subsequent complaints of severe bleeding, swelling, and pain after being returned to state-issued work boots without following up with Dr. Hannula or another approved health care provider.

In contrast, defendant Bentley's only alleged involvement in plaintiff's care was telling plaintiff that the HSU would not keep treating him for his foot problems. Standing alone, this is not sufficient to support a finding of deliberate indifference. The relevant question here is not whether Bentley acted in an impolite manner towards plaintiff, but whether her treatment decisions exhibited a complete abandonment of professional care. *Duckworth v. Ahmad*, 532 F.3d 675, 679-80 (7th Cir. 2008) (rejecting deliberate indifference claim against a doctor based solely on a "questionable bedside manner"). As plaintiff has not alleged any facts suggesting that Bentley *actually* refused to treat plaintiff or provided wholly inadequate treatment for any of plaintiff's foot ailments, he has not pled sufficient facts to proceed on a deliberate indifference claim against Bentley.

Finally, plaintiff's allegations and attachments do not permit an inference that defendant Becher was involved in decisions related to the type of shoe or insert appropriate for plaintiff. Rather, Becher's alleged involvement is limited to a September 2017 response to plaintiff's complaint that his shoes had been confiscated when he arrived at Stanley. Plaintiff has not alleged, and the attached copy of Becher's letter does not suggest, that plaintiff reported HSU at Stanley was ignoring his need for proper footwear, at least *at that time*. As such, it would be unreasonable to infer that Becher's early response was sufficient to permit a finding of deliberate indifference.

Accordingly, while plaintiff will be granted leave to proceed against Dr. Hannula and HSU Manager Barker, the deliberate indifference claim against Bentley and Becher will be dismissed. The court hastens to add, however, that clearing this initial screening does *not* relieve plaintiff of the burden to come forward with concrete evidence as this case

progresses. For example, at summary judgment or trial, plaintiff bears the burden to show that a reasonable jury could find in his favor on each element of his deliberate indifference claim. *Henderson v. Sheahan*, 196 F.3d 839, 848 (7th Cir. 1999). To meet that burden, plaintiff will need to show more than that he disagreed with Dr. Hannula's decision to change his shoe restriction, Barker's alleged indifference to his subsequent problems, *Norfleet v. Webster*, 439 F.3d 392, 396 (7th Cir. 2006), or even that the defendants could have provided better treatment, *Lee v. Young*, 533 F.3d 505, 511-12 (7th Cir. 2008). Plaintiff will have to show that each defendants' conduct was "blatantly inappropriate." *Snipes v. DeTella*, 95 F.3d 586, 592 (7th Cir. 1996) (internal quotations omitted). This may even require his introducing expert opinions that only a medical doctor can provide. *See Ledford v. Sullivan*, 105 F.3d 354, 358-59 (7th Cir. 1997) (distinguishing between deliberate indifference cases where an expert is unnecessary and those where the jury must consider "complex questions concerning medical diagnosis and judgment").

B. Non-medical defendants

Turning to the non-medical defendants, plaintiff has named Sgt. Mason, Captain Lundmark, Examiner Hickey, Deputy Warden Canziani, Captain Kasten, and members of the special needs committee, which the court will address in that order. The starting point for non-medical defendants' liability is that, generally speaking, non-medical personnel are entitled to defer to the judgment of medical professionals. *Rice ex rel. Rice v. Correctional Med. Servs.*, 675 F.3d 650, 676 (7th Cir. 2012) ("jail officials ordinarily are entitled to defer to the judgment of medical professionals"). However, "[n]on-medical defendants cannot simply ignore an inmate's plight," and prison officials may be charged with

deliberate indifference if a prisoner alleges that the official knew of an "excessive risk to inmate health or safety" and failed to take any corrective action. *Arnett v. Webster*, 658 F.3d 742, 755 (7th Cir. 2011) (quoting *Farmer v. Brennan*, 511 U.S. 825, 837 (1994)). Under that rubric, plaintiff will not be granted leave to proceed against any non-medical defendant here, at least as currently pled.

As to defendant Sgt. Mason, plaintiff has not alleged that Mason had reason to know that plaintiff had an ongoing need to wear the orthotic work boots. More to the point, plaintiff has not alleged that Sgt. Mason had reason to believe that Dr. Hannula's and HSU Barker's decision to require him to wear state-issued boots was patently inappropriate. Rather, it appears that all Mason did was follow medical instructions. As such, the court will not grant plaintiff leave to proceed against Sgt. Mason, who will be dismissed.

Defendant Captain Lundmark was more tangentially involved. While plaintiff alleges that Lundmark "seemed oblivious" to his need for the ACG boots, he again fails to provide any factual support for this conclusory allegation. In other words, plaintiff does not allege that Lundmark had any reason to know that plaintiff had previously been issued ACG work boots or that Dr. Hannula ordered that plaintiff receive state-issued shoes with inserts instead. Furthermore, plaintiff does not allege even *when* Lundmark became aware of plaintiff's requests for work boots, much less *what symptoms* plaintiff reported to him that informed Lundmark of plaintiff's urgent need for orthotics in his boots. Without at least some of this context, the fact that Lundmark was "oblivious," is not enough for a reasonable inference of deliberate indifference. As such, Lundmark will be dismissed as well.

Defendant Hickey was apparently the Inmate Complaint Examiner responsible for investigating and ruling on plaintiff's inmate complaints demanding the Nike Airmax shoes. In doing so, Hickey reviewed the decisions of Stanley's HSU staff and concluded that plaintiff received adequate medical care for his foot problems, notwithstanding plaintiff's disagreement with their treatment decisions. Like Mason, Hickey was entitled to defer to the medical decisions of the HSU staff. *Johnson v. Doughty*, 433 F.3d 1001, 1011 (7th Cir. 2006). Given that plaintiff has alleged no facts suggesting that Hickey was otherwise involved in his footwear or medical care, or had reason to know that the decisions were not medically sound, Hickey will be dismissed as well.

Defendants Canziani and Kasten will be dismissed because plaintiff has not alleged that *either* was personally involved with providing him footwear or handling his requests for medical care. Accordingly, they will be dismissed for lack of personal involvement. *Backes v. Village of Peoria Heights, Ill.*, 662 F.3d 866, 869 (7th Cir. 2011) (recognizing the "well-established principle of law that a defendant must have been 'personally responsible' for the deprivation of the right at the root of a § 1983 claim for that claim to succeed.").

Finally, while plaintiff lists "the special needs committee" as a defendant in this lawsuit, he may not proceed against the committee members at this point. As an initial matter, plaintiff has yet to identify the individual committee members, nor even labeled them as individual John or Jane Doe defendants. More importantly, plaintiff has failed to allege exactly what action (or inaction) by the members of the special needs committee with respect to his footwear needs would permit an inference of deliberate indifference. For example, even if the special needs committee was involved in the August 2016 change

in plaintiff's footwear from orthotic work boot to state-issued shoes with insoles, plaintiff alleges neither that he submitted a request for a shoe restriction nor that his request was denied by that committee. Plaintiff is free to seek leave to amend his complaint, but will need to provide: (1) the names of the special needs committee member; (2) the decision(s) made by the committee; (3) dates of those decisions; and (4) the information before them. If he does so, the court will screen that proposed amended complaint. At this stage, however, plaintiff has not alleged that members of the special needs committee took any action exhibiting deliberate indifference to his serious medical need.

II. State law claims

With respect to his proposed state law negligence claim, plaintiff may proceed, but only against Dr. Hannula and Barker based on the same allegations that support his Eighth Amendment claims against them. In fact, his negligence claims are "so related" to his federal claims against these two defendants that "they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). To prevail on a claim for negligence in Wisconsin, plaintiff must prove that defendants breached their duty of care and he suffered injury as a result. *Paul v. Skemp*, 2001 WI 42, ¶ 17, 242 Wis. 2d 507, 520, 625 N.W.2d 860, 865. While it is reasonable to infer at this stage that these defendants were negligent for the same reasons that support plaintiff's Eighth Amendment claims, this may also require expert testimony in order to get to a jury.

With respect to the remaining defendants, however, the court declines to exercise supplemental jurisdiction over purely state law negligence claims. *See Wright v. Associated Ins. Companies Inc.*, 29 F.3d 1244, 1251 (7th Cir. 1994) (in determining whether to exercise

supplemental jurisdiction over state law claims, "a district court should consider and weigh the factors of judicial economy, convenience, fairness and comity in deciding whether to exercise jurisdiction over pendent state-law claims").

III. Plaintiff's motions

A. Motion for order of photographic evidence (dkt. #4)

In this motion, plaintiff requests an order requiring Stanley staff to take photographs of the areas of his feet and legs that have lesions and scars. While Federal Rule of Civil Procedure 34(a)(2) permits a party to enter an opposing party's property to take photographs, the rule *only* requires the opposing party to "permit entry," not to take the photographs for the other party. Nor does any provision of the Federal Rules of Civil Procedure give this court the express authority to order a party or non-party to create a document or photograph on behalf of an opposing party; the rule is limited to those records that already exist. *See Turner v. Rataczak*, No. 13-cv-48-bbc, 2014 WL 834721, at *3 (W.D. Wis. Mar. 4, 2014) (collecting cases). Accordingly, this motion must be denied.

That said, the court appreciates that pictures of plaintiff's legs and feet are relevant to his claims in this lawsuit. While the court cannot order Stanley staff to take photos of his feet and legs, plaintiff should still be able to submit evidence related to his alleged injuries. For one, if plaintiff has access to a camera, either through a friend or family member that can visit him, the court would direct defendants' counsel to arrange a brief viewing of plaintiff's feet so that pictures can be taken or to take the pictures themselves. Aside from actual photos, plaintiff also can submit other forms of evidence, through his

own sworn declaration and/or the declarations of other individuals who have seem the lesions and scars he describes and can swear to their existence. Finally, as plaintiff's medical records may include notes about the injuries he suffered from wearing improper footwear, he may be able to cite to those records as evidence of his injuries as well.[2]

B. Motion for alternative dispute resolution (dkt. #12)

Plaintiff filed a motion requesting alternative dispute resolution. While plaintiff is free to contact defendants about resolving this lawsuit informally, this court does not order the parties to engage in mediation or settlement negotiations. Accordingly, this motion will be denied.

C. Motions for summary judgment (dkts. ##15, 19)

Plaintiff has filed two motions for summary judgment, both of which will be denied at this time as premature. For plaintiff's benefit, here is an outline of how this lawsuit will proceed. This order will direct service of plaintiff's complaint on the defendants, and shortly after the defendants answer or otherwise plead, the clerk of court will set this matter for a telephonic preliminary pretrial conference with Magistrate Judge Stephen Crocker. Following that hearing, Judge Crocker will issue an order setting forth all discovery, dispositive motion and trial deadlines. Attached to that order will be this court's procedures for filing motions for summary judgment. Once the defendants file their answer

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[2] A last possibility, but only in an extreme case would be to seek intervention of the court in the form of a motion for preliminary injunction because the plaintiff's condition is ongoing, in need of immediate treatment on the source of severe, untreated pain. In that case, the court would consider ordering pictures, assuming the defendants were not motivated to do so themselves.

and the parties have engaged in discovery, plaintiff may renew his motion for summary judgment. In doing so, plaintiff should take care to read those instructions specific to motions for summary judgment carefully, and comply with the court's procedures for filing motions for summary judgment.

D. Motion for preliminary injunction (dkt. #21)

Plaintiff has filed a motion for preliminary injunctive relief, in which he asks for a court order directing Stanley HSU personnel to permit him to purchase the orthopedic footwear that he is seeking. Plaintiff's request for preliminary injunctive relief will also be denied at this time. First, plaintiff's motion is procedurally defective because it does not comply with this court's procedure for obtaining preliminary injunctive relief, a copy of which will also be provided to plaintiff with this order. Under these procedures, a plaintiff must file and serve proposed findings of fact that support his claims, along with *evidence* that supports those proposed findings, even if just in the form of an affidavit from plaintiff. At this point, plaintiff has submitted neither proposed findings of fact, nor evidence to support those findings.

Second, even if plaintiff's motion were not facially flawed, it would fail on the merits at this time. To prevail on a motion for a preliminary injunction, plaintiff must show: (1) a likelihood of success on the merits of his case; (2) a lack of an adequate remedy at law; and (3) an irreparable harm that will result if the injunction is not granted. *Lambert v. Buss*, 498 F.3d 446, 451 (7th Cir. 2007). Plaintiff has yet to show a likelihood of success on the merits of his claims. In order to do so he would have to submit actual evidence in support

his claims, including more detailed information about why the defendants' decision to require him to wear state-issued boots constitutes deliberate indifference. Although plaintiff's allegations are sufficient to pass the screening stage, his submissions fall far short of showing that he needs the extraordinary relief that he seeks. Accordingly, he is not entitled to injunctive relief.

ORDER

IT IS ORDERED that:

1. Plaintiff Johnathan Franklin's motions to amend his complaint (dkts. ##8, 14) are GRANTED.

2. Plaintiff is GRANTED leave to proceed on Eighth Amendment deliberate indifference and Wisconsin negligence claims against defendants Dr. Hannula and Jamie Barker.

3. Plaintiff is DENIED leave to proceed on any other claim. Defendants Winkley Orthopedics and Prosthetics, "the special needs committee," Canziani, Kasten, Lundmark, Mason, Hickey and Becher are DISMISSED from this lawsuit.

4. 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 60 days from the date of the Notice of Electronic Filing in this order to answer or otherwise plead to plaintiff's complaint if it accepts service for the defendants.

5. For the time being, plaintiff must send the defendants a copy of every paper or document he files with the court. Once plaintiff has learned what lawyer will be representing the defendants, he should serve the lawyer directly rather than the 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 the defendants or to defendants' attorney.

6. 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.

7. If plaintiff is transferred or released from custody 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.

8. Plaintiff's motions (dkt. ##4, 12, 15, 19, 21) are DENIED as provided above.

Entered this 22nd day of March, 2018.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge