

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

CHARLES SHEPPARD,

Plaintiff,

v.

OPINION AND ORDER

18-cv-152-wmc

SERGEANT KUSSMAL
and KYLE JORGENSEN,

Defendants.

The court held a telephonic scheduling conference today, during which the court reset the trial schedule and made additional rulings. Mr. Sheppard represented himself; defendants were represented by counsel. The following memorializes those rulings:

1. For the reasons explained during the hearing, the court GRANTS plaintiff's motion to reconsider its order dismissing plaintiff's Eighth Amendment deliberate indifference claim as to defendant Kyle Jorgenson. (Dkt. #56.) In particular, in reviewing Sheppard's sworn complaint and subsequent declaration in opposition to entry of summary judgment, the court agrees that Sheppard's alleged statements to Jorgenson that he intended to commit self-harm, coupled with his subsequent statement that he "*would not be alive tomorrow*" were, in fact, sufficient to permit an inference that Jorgenson knew that Sheppard would imminently harm himself (if not, commit suicide). Accordingly, the court RECONSIDERS its opinion and order granting summary judgment in favor of Jorgenson, and REINSTATES Jorgenson as a defendant. Along with his claim

against Sergeant Kusmaul, Sheppard's Eighth Amendment deliberate indifference claim against Jorgenson will proceed to trial.

2. Within **21 days**, defendants shall file a motion setting forth grounds to exclude evidence of plaintiff Sheppard's diagnosis of MRSA and treatment for that infection, if any, in support of his claim for damages. If filed, plaintiff shall have **14 days** to oppose defendants' motion. If defendants do not file a motion to exclude evidence of plaintiff's MRSA diagnosis and treatment, the parties understand that plaintiff will be permitted to present evidence of that diagnosis and treatment as part of his proof of injury and damages to the jury.
3. Also within **21 days**, defendants shall turn over to plaintiff all of his medical records within the Wisconsin Department of Corrections' possession spanning from two years before his self-harm on October 27, 2018, to the present. If defendants are unable to produce any of those materials within that timeframe, defendants are directed to update that court as to the date by which they can provide them or grounds for withholding them indefinitely. To the extent plaintiff wishes to respond, he will have **14 days** to do so.
4. The trial in this case is RESET to begin **July 19, 2021**, at 8:30 a.m., with the following deadlines for pretrial submissions:

Motions in limine, Rule 26(a)(3) disclosures, proposed voir dire questions, jury instructions and verdict forms, exhibit lists and a complete set of exhibits: **June 15, 2021**.

Responses to motions in limine, Rule 26(a)(3) disclosures, proposed voir dire questions, jury instructions and verdict forms, exhibit lists and a complete set of exhibits: **June 29, 2021**.

The court will also hold a final pretrial video (zoom) conference on **July 13, 2021,**
at 3:00 p.m.

SO ORDERED.

Dated this 21st day of January, 2021.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge