

**U.S. District Court  
Western District of Wisconsin (Madison)  
CIVIL DOCKET FOR CASE #: 3:11-cv-00272-wmc**

Schlemm, David v. Frank, Matthew et al  
Assigned to: District Judge William M. Conley  
Referred to: Magistrate Judge Stephen L. Crocker  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 04/18/2011  
Date Terminated: 06/10/2014  
Jury Demand: Plaintiff  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**David A. Schlemm**

represented by **David A. Schlemm**  
198339  
Green Bay Correctional Institution  
2833 Riverside Dr.  
P.O. Box 19033  
Green Bay, WI 54307-9033  
PRO SE

V.

**Defendant**

**Matthew J. Frank**  
*in his individual and official capacities as  
Secretary of Wisconsin Department of  
Corrections*

represented by **Corey Francis Finkelmeyer**  
Wisconsin Department of Justice  
P.O. Box 7857  
Madison, WI 53707  
(608) 266-7342  
Fax: (608) 267-8906  
Email: federalorderscl@doj.state.wi.us  
*TERMINATED: 11/29/2012*

**Jody J. Schmelzer**  
Wisconsin Department of Justice  
P.O. Box 7857  
Madison, WI 53707  
(608) 266-3094  
Fax: (608) 267-8906  
Email: schmelzerjj@doj.state.wi.us  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Phil Kingston**  
*in his individual and official capacities as  
Warden of Waupun Correctional  
Institution*

represented by **Corey Francis Finkelmeyer**  
(See above for address)  
*TERMINATED: 11/29/2012*

**Jody J. Schmelzer**

(See above for address)





**ATTORNEY TO BE NOTICED****Defendant****James Muenchow***Institution Complaint Examiner; in his individual and official capacities*  
**TERMINATED: 11/20/2012**represented by **Corey Francis Finkelmeyer**










(See above for address)












**TERMINATED: 11/29/2012****Defendant****Edward Wall**represented by **Jody J. Schmelzer**











(See above for address)













**ATTORNEY TO BE NOTICED**











| <b>Date Filed</b> | <b>#</b>  | <b>Docket Text</b>  |
|-------------------|---|---|
| 04/18/2011        |  <a href="#">1</a>   | COMPLAINT against Matthew Frank, Phil Kingston, James Muenchow. ( Filing fee \$ 350 receipt number 10672) filed by David A. Schlemm. (Case randomly assigned to District Judge William M. Conley.) (Attachments: # <a href="#">1</a> Exhibit A - Letter from Senator Moore to Wisc. DOC Secretary, 8/22/02, # <a href="#">2</a> Exhibit B - Letter to Lori Simon from plaintiff, 3/3/07, # <a href="#">3</a> Exhibits C, D, E - Offender complaints, # <a href="#">4</a> Exhibit F - Internal Management Procedures, effective 6/1/92, # <a href="#">5</a> Exhibit G - Internal Managment Procdures, effective 4/17/01, # <a href="#">6</a> Exhibit H - Internal Managment Procedures, effective 9/3/02, # <a href="#">7</a> Exhibit I - DAI Policy 309.61.1, effective 7/24/06, # <a href="#">8</a> Exhibit J - DAI Policy 309.61.02, effective 7/20/10, # <a href="#">9</a> Exhibit K - U.S. BOP guidelines, # <a href="#">10</a> Exhibit L - Letters and guideline excerpts from Great Lakes Inter-tribal council, # <a href="#">11</a> Exhibits M, N, O - Ch. DOC 310, # <a href="#">12</a> Exhibits P, Q - Lexis Nexis searches, # <a href="#">13</a> Exhibit R - State of WA DOC handbook, # <a href="#">14</a> Exhibit S - Senate Committee hearing on Indian Affairs from Richard Watkins, 3/8/93, # <a href="#">15</a> Exhibit T - Declaration of Ryan Krist, 3/16/11, # <a href="#">16</a> Exhibit U - Declaration of Roy Red Hail, 9/28/10, # <a href="#">17</a> Exhibit V - Request for New Religious Practice, 10/1/10, # <a href="#">18</a> Exhibit X - inmatepackage.com catalog, # <a href="#">19</a> Envelope) (jef) Note, there is no Exhibit W, 4/19/2011 (jef). (Additional attachment(s) added on 4/19/2011: # <a href="#">20</a> Cover Letter) (jef). (Entered: 04/19/2011) |
| 04/22/2011        |  <a href="#">2</a> | ORDER on ifp request: Complaint taken under advisement for screening. Signed by Magistrate Judge Stephen L. Crocker on 4/20/2011. (voc),(ps) (Entered: 04/22/2011)  |
| 04/22/2011        |                    | Motion for Screening of Complaint. (jef),(ps) (Entered: 04/22/2011)   |
| 11/20/2012        |  <a href="#">3</a> | ORDER on Leave to Proceed: Plaintiff granted leave to proceed against Defendants Matthew J. Frank, Phil Kingston. Leave to proceed denied and case dismissed against James Muenchow. Materials delivered to DOJ for acceptance of service. Signed by District Judge William M. Conley on 11/19/2012. (jef),(ps) (Entered: 11/20/2012)   |









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|            |  | 11/20/2012)  |
| 11/29/2012 |  <a href="#">4</a>    | Notice of Appearance filed by Jody J. Schmelzer for Defendants Matthew J. Frank, Phil Kingston, Edward Wall (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 11/29/2012)   |
| 11/29/2012 |  <a href="#">5</a>    | Acceptance of Service by DOJ on behalf of Defendants Matthew J. Frank, Phil Kingston, Edward Wall. (Schmelzer, Jody),(ps) (Entered: 11/29/2012)  |
| 12/04/2012 |  <a href="#">6</a>    | Memorandum that for the remainder of this lawsuit plaintiff need only send a copy of his filings in this case to the court pursuant to an informal service agreement with the Wisconsin Department of Justice. Signed by Magistrate Judge Stephen L. Crocker on 12/4/2012. (jef),(ps) (Entered: 12/04/2012)  |
| 12/31/2012 |  <a href="#">7</a>    | ANSWER with Jury Demand by Defendants Matthew J. Frank, Phil Kingston, Edward Wall. (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 12/31/2012)   |
| 01/02/2013 |                       | Set Telephone Pretrial Conference: Telephone Pretrial Conference set for 1/29/2013 at 02:00 PM before Magistrate Judge Stephen L. Crocker. Counsel for Defendants responsible for setting up the call to chambers at (608) 264-5153. [ <a href="#">Notice Regarding the Telephone Preliminary Pretrial Conference</a> attached] (elc),(ps) (Entered: 01/02/2013)   |
| 01/24/2013 |  <a href="#">8</a>    | Motion to Reschedule Pretrial Conference by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Cover Letter and Envelope) (elc),(ps) (Entered: 01/24/2013)  |
| 01/24/2013 |  <a href="#">9</a>  | ** TEXT ONLY ORDER **<br>On January 24, 2013, plaintiff, who is proceeding pro se, moved to postpone the January 29, 2013 telephonic preliminary pretrial conference so that he may prepare a motion to certify his lawsuit as a class action. This motion is denied for two related reasons: first, this case has been pending in this court for nine months, and it is in plaintiff's and defendant's best interests to obtain a schedule from this court so as not to lose their place in line for trial. Second, although plaintiff is free to file a request to certify this case as a class action if he wishes, there are several procedural hurdles that would have to be cleared, the most pressing of which would be the issue of representation by an attorney. A class action cannot proceed pro se. See F.R. Civ. Pro. 23(g). Before the court would consider appointing an attorney or a law firm as class counsel in a pro se prisoner case, plaintiff, like any other indigent pro se plaintiff, would have to demonstrate that he already had made sufficient attempts to retain an attorney for the class but had been unsuccessful in doing so. This will take some time. When we confer on January 29, 2013, the court will discuss these matters further with the parties. Signed by Magistrate Judge Stephen L. Crocker on 1/24/2013. (elc),(ps) (Entered: 01/24/2013) |
| 01/29/2013 |                     | Minute Entry for proceedings held before Magistrate Judge Stephen L. Crocker: Telephone Preliminary Pretrial Conference - Pro Se held on 1/29/2013 [:30] (cak),(ps) (Entered: 01/29/2013)  |
| 01/31/2013 |  <a href="#">10</a> | Pretrial Conference Order - Dispositive Motions for Failure to Exhaust Administrative Remedies due 3/15/2013. Dispositive Motions due 9/16/2013. Rule 26(a)(3) Disclosures and all motions in limine due 2/28/2014. Objections due 3/14/2014. Final Pretrial Conference set for 3/31/2014 at 08:30 AM. Jury Selection  |

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|            |  | and Trial set for 3/31/2014 at 09:00 AM. Signed by Magistrate Judge Stephen L. Crocker on 1/30/2013. (jef),(ps) (Entered: 01/31/2013)  |
| 01/31/2013 |  <a href="#">11</a>   | Motion to Certify Class under Rule 23 by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Cover Letter, # <a href="#">3</a> Envelope) (jef),(ps) (Entered: 01/31/2013)  |
| 01/31/2013 |  <a href="#">12</a>   | Brief in Support of <a href="#">11</a> Motion to Certify Class under Rule 23 by Plaintiff David A. Schlemm. (jef),(ps) (Entered: 01/31/2013)   |
| 02/07/2013 |  <a href="#">13</a>   | Motion to Appoint Counsel by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Letters, # <a href="#">2</a> Certificate of Service, # <a href="#">3</a> Cover Letter, # <a href="#">4</a> Envelope) (jef),(ps) (Entered: 02/08/2013)   |
| 02/07/2013 |  <a href="#">14</a>   | Brief in Support of <a href="#">13</a> Motion to Appoint Counsel by Plaintiff David A. Schlemm. (jef),(ps) (Entered: 02/08/2013)   |
| 02/07/2013 |  <a href="#">15</a>   | Declaration of David A. Schlemm. re: <a href="#">13</a> Motion to Appoint Counsel. (jef),(ps) (Entered: 02/08/2013)  |
| 03/15/2013 |  <a href="#">16</a>   | <b>MOTION FOR PARTIAL SUMMARY JUDGMENT for failure to exhaust administrative remedies .</b> by Defendants Matthew J. Frank, Phil Kingston, Edward Wall. (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 03/15/2013)   |
| 03/15/2013 |  <a href="#">17</a> | Brief in Support of <a href="#">16</a> Motion for Partial Summary Judgment by Defendants Matthew J. Frank, Phil Kingston, Edward Wall (Schmelzer, Jody),(ps) (Entered: 03/15/2013)   |
| 03/15/2013 |  <a href="#">18</a> | Affidavit of Kelli R. Willard West filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">16</a> Motion for Partial Summary Judgment (Attachments: # <a href="#">1</a> Exhibit 1000, Policy 309 Religious Beliefs and Practice, # <a href="#">2</a> Exhibit 1001, Policy 309 Resources For Inmates, Religious Property, # <a href="#">3</a> Exhibit 1002, Policy 309 Resources For Inmate, Religious Diets, # <a href="#">4</a> Exhibit 1003, DOC-2075 form, # <a href="#">5</a> Exhibit 1004, Schlemm Request dated 5.29.08, # <a href="#">6</a> Exhibit 1005, Schlemm Request dated 10.25.09, # <a href="#">7</a> Exhibit 1006, Schlemm Request dated 10.01.10, # <a href="#">8</a> Exhibit 1007, Schlemm Request dated 3.30.12, # <a href="#">9</a> Exhibit 1008, Schlemm Request dated 8.31.12) (Schmelzer, Jody),(ps) (Entered: 03/15/2013) |
| 03/15/2013 |                     | Set Deadlines as to <a href="#">16</a> MOTION FOR PARTIAL SUMMARY JUDGMENT for failure to exhaust administrative remedies . Plaintiff's Brief in Opposition due 4/1/2013. Defendants' Brief in Reply due 4/8/2013. (elc),(ps) (Entered: 03/15/2013)  |
| 04/04/2013 |  <a href="#">19</a> | Motion for Extension of Time by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Cover Letter and Envelope) (elc),(ps) (Entered: 04/04/2013)  |
| 04/05/2013 |  <a href="#">20</a> | ORDER granting plaintiff's <a href="#">19</a> Motion for Extension of Time to file his materials in opposition to defendants' motion for summary judgment. Plaintiff's Brief in  |













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|            |  | Opposition due 4/19/2013. Defendants' Brief in Reply due 4/26/2013. Signed by Magistrate Judge Stephen L. Crocker on 4/4/2013. (jef),(ps) (Entered: 04/05/2013)   |
| 04/08/2013 |  <a href="#">21</a>   | Brief in Opposition by Plaintiff David A. Schlemm re: <a href="#">16</a> Motion for Partial Summary Judgment filed by Matthew J. Frank, Edward Wall, Phil Kingston. (Attachments: # <a href="#">1</a> Cover Letter and Envelope) (elc),(ps) (Entered: 04/08/2013)   |
| 04/26/2013 |  <a href="#">22</a>   | Brief in Reply by Defendants Matthew J. Frank, Phil Kingston, James Muenchow, Edward Wall in Support of <a href="#">16</a> Motion for Partial Summary Judgment (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 04/26/2013)   |
| 08/02/2013 |  <a href="#">23</a>   | Motion for Extension of Time to Disclose Expert Witness by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Cover Letter and Envelope) (elc),(ps) (Entered: 08/02/2013)  |
| 08/05/2013 |  24                   | ** TEXT ONLY ORDER **<br>ORDER granting plaintiff's <a href="#">23</a> Motion for Extension of Time to Disclose Expert Witness. Plaintiff's disclosure of Expert Witnesses due 8/30/2013. Defendants disclosure of Expert Witnesses due 9/30/2013 Signed by Magistrate Judge Stephen L. Crocker on 8/5/2013. (jef),(ps) (Entered: 08/05/2013)   |
| 08/19/2013 |  <a href="#">25</a>   | Motion to Take Deposition from David A. Schlemm by Defendants Matthew J. Frank, Phil Kingston, Edward Wall. Motions referred to Magistrate Judge Stephen L. Crocker. (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 08/19/2013)   |
| 08/19/2013 |  26                 | ** TEXT ONLY ORDER **<br>Order GRANTING defendants' <a href="#">25</a> Motion to Take Deposition of plaintiff David Schlemm. Signed by Magistrate Judge Stephen L. Crocker on 8/19/2013. (elc),(ps) (Entered: 08/19/2013)   |
| 08/28/2013 |  <a href="#">27</a> | Motion to Stay deposition until after the court decides plaintiff's motion for appointment of counsel or to appoint counsel to represent plaintiff at the deposition filed by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Cover Letter and Envelope) (elc),(ps) (Entered: 08/28/2013)   |
| 08/29/2013 |  <a href="#">28</a> | ORDER denying <a href="#">27</a> Motion to Stay Deposition; denying <a href="#">13</a> Motion for Assistance in Recruiting Counsel. To ensure that plaintiff receives a copy of this order in time for the deposition, counsel for the defendants are directed to cause hand-delivery of a copy of this order to plaintiff as soon as possible before the deposition begins. Signed by Magistrate Judge Stephen L. Crocker on 8/29/2013. (jef),(ps) (Entered: 08/29/2013) |
| 09/09/2013 |  <a href="#">29</a> | Motion to Stay <i>Scheduling Order</i> by Defendants Matthew J. Frank, Phil Kingston, Edward Wall. (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 09/09/2013)   |
| 09/09/2013 |  30                 | ** TEXT ONLY ORDER **<br>Order GRANTING defendants' <a href="#">29</a> Motion to stay the current scheduling order pending ruling on defendants' <a href="#">16</a> motion for partial summary judgment based on plaintiff's failure to exhaust administrative remedies. Defendants may have 14-days  |













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|            |  | from the date of the court's ruling on their motion for partial summary judgment to disclose experts and file any further dispositive motions. Signed by Magistrate Judge Stephen L. Crocker on 9/9/2013. (elc),(ps) (Entered: 09/09/2013)   |
| 09/11/2013 |  <a href="#">31</a>   | Renewed Motion for Assistance Recruiting Counsel/ Objections re: <a href="#">28</a> Order on Motion for Assistance in Recruiting Counsel by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Cover Letter, # <a href="#">3</a> Envelope) (jaf),(ps) Modified docket text/event type on 9/26/2013 (elc). (Entered: 09/11/2013) |
| 09/30/2013 |  <a href="#">32</a>   | ORDER denying <a href="#">31</a> Motion for Assistance in Recruiting Counsel.; denying <a href="#">11</a> Motion to Certify Class under Rule 23; denying <a href="#">16</a> Motion for Partial Summary Judgment. Signed by District Judge William M. Conley on 09/30/2013. (mfh),(ps) (Entered: 09/30/2013)  |
| 10/02/2013 |  <a href="#">33</a>   | Interrogatories and Request for Production of Documents to Defendant Edward Wall by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Cover Letter and Envelope) (elc),(ps) (Entered: 10/02/2013)  |
| 10/02/2013 |  <a href="#">34</a>   | Interrogatories and Request for Production of Documents to Defendant Phil Kingston by Plaintiff David A. Schlemm. (elc),(ps) (Entered: 10/02/2013)   |
| 10/08/2013 |  <a href="#">35</a>   | Deposition of David A. Schlemm taken on August 30, 2013 (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 10/08/2013)   |
| 10/14/2013 |  <a href="#">36</a> | <b>MOTION FOR SUMMARY JUDGMENT</b> by Defendants Matthew J. Frank, Phil Kingston, Edward Wall. (Schmelzer, Jody),(ps) (Entered: 10/14/2013)  |
| 10/14/2013 |  <a href="#">37</a> | Proposed Findings of Fact filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Schmelzer, Jody),(ps) (Entered: 10/14/2013)   |
| 10/14/2013 |  <a href="#">38</a> | Affidavit of Christine A. Althaus filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Schmelzer, Jody),(ps) (Entered: 10/14/2013)   |
| 10/14/2013 |  <a href="#">39</a> | Affidavit of Michael Donovan filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Schmelzer, Jody),(ps) (Entered: 10/14/2013)  |
| 10/14/2013 |  <a href="#">40</a> | Affidavit of Alfred George filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Schmelzer, Jody),(ps) (Entered: 10/14/2013)  |
| 10/14/2013 |  <a href="#">41</a> | Affidavit of Peter Jaeger filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Schmelzer, Jody),(ps) (Entered: 10/14/2013)   |
| 10/14/2013 |  <a href="#">42</a> | Affidavit of Michael Mohr filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Attachments: # <a href="#">1</a> Exhibit 1009 Group Complaint Number GBCI-2008-24389) (Schmelzer, Jody),(ps) (Entered: 10/14/2013)  |




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| 10/14/2013 |  <a href="#">43</a>   | Supplemental Affidavit of Kelli R. Willard West filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Attachments: # <a href="#">1</a> Exhibit 1010 Religious Property Chart) (Schmelzer, Jody),(ps) (Entered: 10/14/2013)  |
| 10/15/2013 |  <a href="#">44</a>   | Brief in Support of <a href="#">36</a> Motion for Summary Judgment by Defendants Matthew J. Frank, Phil Kingston, Edward Wall (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 10/15/2013)   |
| 10/15/2013 |                       | Set Deadlines as to <a href="#">36</a> MOTION FOR SUMMARY JUDGMENT . [ <a href="#">Pro Se Summary Judgment Procedure</a> attached.] Plaintiff's Brief in Opposition due 11/14/2013. Defendants' Brief in Reply due 11/25/2013. (elc),(ps) (Entered: 10/15/2013)  |
| 11/06/2013 |  <a href="#">45</a>   | Motion for Reconsideration re <a href="#">32</a> OORDER denying <a href="#">31</a> Motion for Assistance in Recruiting Counsel.; denying <a href="#">11</a> Motion to Certify Class under Rule 23; denying <a href="#">16</a> Motion for Partial Summary Judgment by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Cover Letter, # <a href="#">2</a> Envelope, # <a href="#">3</a> Certificate of Service) (jaf),(ps) Modified on 11/6/2013 (jaf). (Entered: 11/06/2013)   |
| 11/06/2013 |  <a href="#">46</a>   | Proposed Notice of Class Action by Plaintiff David A. Schlemm. (jaf),(ps) (Entered: 11/06/2013)  |
| 11/06/2013 |  <a href="#">47</a>   | Declaration of David Schlemm filed by Plaintiff David A. Schlemm re: <a href="#">45</a> Motion for Reconsideration (jaf),(ps) (Entered: 11/06/2013)  |
| 11/06/2013 |  <a href="#">48</a> | Motion for Reconsideration re <a href="#">32</a> Order on Motion for Assistance in Recruiting Counsel, Order on Motion to Certify Class under Rule 23, Order on Motion for Partial Summary Judgment by Plaintiff David A. Schlemm. (jaf),(ps) (Entered: 11/06/2013)  |
| 11/18/2013 |  <a href="#">49</a> | Motion for Extension of Time by Plaintiff David A. Schlemm. Motions referred to Magistrate Judge Stephen L. Crocker. (Attachments: # <a href="#">1</a> 11-6-13 Reviewers Decision, # <a href="#">2</a> Certificate of Service, # <a href="#">3</a> Cover Letter, # <a href="#">4</a> Envelope) (jaf),(ps) (Entered: 11/18/2013)  |
| 11/19/2013 |  <a href="#">50</a> | ** TEXT ONLY ORDER **<br>Plaintiff David A. Schlemm has filed a motion for an extension of time, up to and including December 16, 2013, in which to respond to the defendants' motion for summary judgment. Plaintiff's motion for an extension (dkt. # <a href="#">49</a> ) is GRANTED, making his response due no later than December 16, 2013. Plaintiff has also filed a motion to reconsider certifying this case as a class action and a motion to appoint class counsel. Both of these motions (dkt. # <a href="#">45</a> , # <a href="#">48</a> ) are DENIED without prejudice. Plaintiff may renew his motion for class certification, including a request for assistance in recruiting pro bono counsel under 28 U.S.C. § 1915(e)(1), after the court has ruled on the pending summary judgment motion. Signed by District Judge William M. Conley on 11/19/2013. (jef),(ps) (Entered: 11/19/2013) |
| 11/26/2013 |  <a href="#">51</a> | Motion to Stay the Current Scheduling Order Pursuant to FRCP 56(d)(2) by Plaintiff David A. Schlemm. (Attachments:   |

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|            |  | # <a href="#">1</a> Letter to AAG Schmelzer,<br># <a href="#">2</a> Cover Letter,<br># <a href="#">3</a> Certificate of Service,<br># <a href="#">4</a> Envelope) (jaf),(ps) (Entered: 11/26/2013)   |
| 12/19/2013 |  <a href="#">52</a>   | Motion for Extension of Time by Plaintiff David A. Schlemm. Motions referred to Magistrate Judge Stephen L. Crocker. (Attachments:<br># <a href="#">1</a> Exhibits in Support,<br># <a href="#">2</a> Certificate of Service,<br># <a href="#">3</a> Cover Letter,<br># <a href="#">4</a> Envelope) (jaf),(ps) (Entered: 12/19/2013)   |
| 12/19/2013 |  <a href="#">53</a>   | Declaration of David Schlemm filed by Plaintiff David A. Schlemm re: <a href="#">52</a> MOTION for Extension of Time (jaf),(ps) (Entered: 12/19/2013)  |
| 12/19/2013 |  <a href="#">54</a>   | Motion for Reconsideration re <a href="#">32</a> Order on Motion for Assistance in Recruiting Counsel by Plaintiff David A. Schlemm. (jaf),(ps) (Entered: 12/19/2013)  |
| 01/17/2014 |  <a href="#">55</a>   | Motion for Extension of Time to file brief in opposition to summary judgment by Plaintiff David A. Schlemm. (Attachments:<br># <a href="#">1</a> Certificate of Service,<br># <a href="#">2</a> Cover Letter and Envelope) (elc),(ps) (Entered: 01/17/2014)  |
| 01/17/2014 |  <a href="#">56</a>   | Declaration of David A. Schlemm re: <a href="#">55</a> MOTION for Extension of Time to file opposition to summary judgment. (Attachments:<br># <a href="#">1</a> Attachments from Johnson Greybuffalo) (elc),(ps) (Entered: 01/17/2014)  |
| 01/22/2014 |  <a href="#">57</a> | Declaration of Johnson W. Greybuffalo re: <a href="#">55</a> MOTION for Extension of Time (Attachments:<br># <a href="#">1</a> Exhibits in Support,<br># <a href="#">2</a> Cover Letter,<br># <a href="#">3</a> Certificate of Service,<br># <a href="#">4</a> Envelope) (jaf),(ps) (Entered: 01/22/2014)  |
| 02/13/2014 |  <a href="#">58</a> | ** TEXT ONLY ORDER **<br>Plaintiff David A. Schlemm was granted leave to proceed with claims for relief under 42 U.S.C. § 1983 against defendants Matthew J. Frank, Edward Hall and Phil Kingston. On October 15, 2013, defendants filed a motion for summary judgment. (Dkt. # <a href="#">36</a> ). On November 23, 2013, Schlemm filed motion for a 30-day extension of time to conduct additional discovery pursuant to Fed. R. Civ. P. 56(d)(2). To the extent that it is not moot, this motion (dkt. # <a href="#">51</a> ) is GRANTED. Schlemm has made more than one request for an extension of time, up to and including February 28, 2014, in which to respond to defendants' summary-judgment motion. Those requests (dkts. # <a href="#">52</a> , # <a href="#">55</a> ) are also GRANTED. In addition, Schlemm asks the court to reconsider his request for appointed counsel. (Dkt. # <a href="#">54</a> ). The court will reserve a decision on that request until after it has considered the parties' briefing on defendants' motion for summary judgment. Signed by District Judge William M. Conley on 2/13/2014. (elc),(ps) (Entered: 02/13/2014) |
| 02/25/2014 |  <a href="#">59</a> | Motion to Stay re <a href="#">10</a> Pretrial Conference Order, by Defendants Matthew J. Frank, Phil Kingston, Edward Wall. (Attachments:<br># <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 02/25/2014)  |



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| 02/26/2014 |  <a href="#">60</a>   | ORDER that all remaining deadlines in the pretrial conference order, Dkt. # <a href="#">10</a> , are STAYED until further notice. If necessary, the court will enter a new scheduling order once the defendants' motion for summary judgment has been decided. Signed by District Judge William M. Conley on 2/26/2014. (jef),(ps) (Entered: 02/26/2014)  |
| 03/03/2014 |  <a href="#">61</a>   | Motion for Stay of Proceedings and Remand of or Leave to Voluntarily Withdraw State Law Claims by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Cover Letter, # <a href="#">2</a> Certificate of Service, # <a href="#">3</a> Envelope) (jaf),(ps) (Entered: 03/03/2014)  |
| 03/03/2014 |  <a href="#">62</a>   | Motion for Extension of Time by Plaintiff David A. Schlemm. Motions referred to Magistrate Judge Stephen L. Crocker. (jaf),(ps) (Entered: 03/03/2014)   |
| 03/04/2014 |  <a href="#">63</a>   | ORDER denying <a href="#">61</a> Motion for Stay of Proceedings and Remand of or Leave to Voluntarily Withdraw State Law Claims; denying <a href="#">62</a> Motion for Extension of Time. If Schlemm does not file a response to defendants' motion for summary judgment within fourteen days from the date of this order, his federal claims will be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). No extension of this deadline will be granted. Signed by District Judge William M. Conley on 3/4/2014. (jef),(ps) (Entered: 03/04/2014) |
| 03/04/2014 |                       | Set/Reset Deadlines as to <a href="#">36</a> MOTION FOR SUMMARY JUDGMENT. Brief in Opposition due 3/18/2014. Brief in Reply due 3/28/2014. (jef),(ps) (Entered: 03/04/2014)   |
| 03/05/2014 |  <a href="#">64</a>  | Letter to the court from plaintiff Plaintiff David A. Schlemm re: retaliation/harassment. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Envelope) (jaf),(ps) Modified event type/docket text on 3/5/2014 (elc). (Entered: 03/05/2014)   |
| 03/05/2014 |  <a href="#">65</a> | Declaration of David Schlemm filed by Plaintiff David A. Schlemm re: <a href="#">64</a> Letter to the court. (Attachments: # <a href="#">1</a> Exhibits in Support) (jaf),(ps) Modified on 3/5/2014 (elc). (Entered: 03/05/2014)  |
| 03/24/2014 |  <a href="#">66</a> | Brief in Opposition by Plaintiff David A. Schlemm re: <a href="#">36</a> Motion for Summary Judgment filed by Matthew J. Frank, Edward Wall, Phil Kingston (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Cover Letter and Envelope) (elc),(ps) (Entered: 03/24/2014)  |
| 03/24/2014 |  <a href="#">67</a> | Response to Proposed Findings of Fact filed by Plaintiff David A. Schlemm re: <a href="#">36</a> Motion for Summary Judgment (elc),(ps) (Entered: 03/24/2014)   |
| 03/24/2014 |                     | Set Deadlines as to <a href="#">36</a> MOTION FOR SUMMARY JUDGMENT . Defendants Brief in Reply due 4/3/2014. (elc),(ps) (Entered: 03/24/2014)   |
| 03/25/2014 |  <a href="#">68</a> | Letter from clerk's office in response to plaintiff David Schlemm's cover letter re: typed copy of <a href="#">66</a> Brief in Opposition. (elc),(ps) (Entered: 03/25/2014)   |
| 03/26/2014 |  <a href="#">69</a> | Plaintiff's Exhibits in opposition to <a href="#">36</a> Motion for Summary Judgment filed by Matthew J. Frank, Edward Wall, Phil Kingston. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Envelope) (elc),(ps) (Entered: 03/26/2014)  |

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| 03/26/2014 |  <a href="#">70</a>   | Letter from plaintiff re: denial of legal materials (Attachments: # <a href="#">1</a> ICE Receipt dated 3/18/2014 re: Legal Materials) (elc),(ps) (Entered: 03/26/2014)   |
| 04/03/2014 |  <a href="#">71</a>   | Brief in Reply by Defendants Matthew J. Frank, Phil Kingston, Edward Wall in Support of <a href="#">36</a> Motion for Summary Judgment (Attachments: # <a href="#">1</a> Certificate of Service) (Schmelzer, Jody),(ps) (Entered: 04/03/2014)   |
| 04/03/2014 |  <a href="#">72</a>   | Reply in Support of Proposed Findings of Fact filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Schmelzer, Jody),(ps) (Entered: 04/03/2014)  |
| 04/03/2014 |  <a href="#">73</a>   | Affidavit of Catherine A. Francois filed by Defendants Matthew J. Frank, Phil Kingston, Edward Wall re: <a href="#">36</a> Motion for Summary Judgment (Attachments: # <a href="#">1</a> Exhibit 1011--DAI Property Chart) (Schmelzer, Jody),(ps) (Entered: 04/03/2014)   |
| 04/28/2014 |  <a href="#">74</a>   | Objection to <a href="#">71</a> Brief in Reply and Request for Evidentiary Hearing by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Exhibits, # <a href="#">2</a> Certificate of Service, # <a href="#">3</a> Cover Letter and Envelope) (elc),(ps) (Entered: 04/28/2014)   |
| 04/28/2014 |  <a href="#">75</a>   | Declaration of Arthur J. Fariok filed by Plaintiff David A. Schlemm re: <a href="#">36</a> Motion for Summary Judgment (elc),(ps) (Entered: 04/28/2014)   |
| 04/28/2014 |  <a href="#">76</a>   | Declaration of William N. Ledford filed by Plaintiff David A. Schlemm re: <a href="#">36</a> Motion for Summary Judgment (elc),(ps) (Entered: 04/28/2014)   |
| 04/28/2014 |  <a href="#">77</a> | Declaration of Tim Torrez filed by Plaintiff David A. Schlemm re: <a href="#">36</a> Motion for Summary Judgment (elc),(ps) (Entered: 04/28/2014)   |
| 04/28/2014 |  <a href="#">78</a> | Motion to Reconsider Appointment of Counsel by Plaintiff David A. Schlemm. (elc),(ps) (Entered: 04/28/2014)   |
| 06/10/2014 |  <a href="#">79</a> | ORDER vacating the order dated September 30, 2013, denying defendants' motion for partial summary judgment on the issue of exhaustion without prejudice (dkt. # <a href="#">32</a> ). Defendants' motion for partial summary judgment for failure to exhaust ( dkt. # <a href="#">16</a> ) is GRANTED. Plaintiff David Schlemm's claims concerning his request for weekly or bi-weekly sweat lodge ceremonies, the right to possess and smoke a personal pipe, and the right to wear a ribbon shirt or bear-claw jewelry are DISMISSED without prejudice for lack of exhaustion. Defendants' motion for summary judgment on the merits of plaintiff's exhausted claims (dkt. # <a href="#">36</a> ) is GRANTED. Those claims are DISMISSED with prejudice. The clerk of court is directed to enter judgment accordingly and close this case. Signed by District Judge William M. Conley on 6/10/2014. (jef),(ps) Modified on 6/10/2014 (jef). (Entered: 06/10/2014) |
| 06/10/2014 |  <a href="#">80</a> | JUDGMENT entered in favor of defendants dismissing this case. (PAO/jef). (jef),(ps) (Entered: 06/10/2014)   |
| 07/09/2014 |  <a href="#">81</a> | Motion for Extension of Time to file a Rule 59 Motion by Plaintiff David A. Schlemm. (Attachments: # <a href="#">1</a> Certificate of Service, # <a href="#">2</a> Cover Letter and Envelope) (elc),(ps) (Entered: 07/09/2014)  |

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| 07/14/2014 |  <a href="#">82</a> | <p><b>** TEXT ONLY ORDER **</b></p> <p>On June 10, 2014, this court granted summary judgment in favor of the defendants and dismissed the prisoner civil rights case filed by plaintiff David Schlemm. On July 9, 2014, Schlemm filed a motion for an extension of time to seek relief pursuant to Fed. R. Civ. P. 59(e). Motions for relief under Fed. R. Civ. P. 59(e) must be filed within 28 days of the judgment. Extensions of this deadline are prohibited by Fed. R. Civ. P. 6(b)(2). Accordingly, Schelmm's motion for an extension of time (dkt. # <a href="#">81</a> ) must be and is DENIED. Signed by District Judge William M. Conley on 7/14/2014. (elc),(ps) (Entered: 07/14/2014)</p> |
| 07/21/2014 |  <a href="#">83</a> | <p>NOTICE OF APPEAL by Plaintiff David A. Schlemm as to <a href="#">80</a> Judgment, <a href="#">79</a> Order on Motion for Summary Judgment. In forma pauperis pending. Docketing Statement filed. (Attachments:<br/># <a href="#">1</a> Docketing Statement,<br/># <a href="#">2</a> Certificates of Service) (elc),(ps) (Entered: 07/21/2014)</p>   |
| 07/21/2014 |  <a href="#">84</a> | <p>Appeal Information Packet. (elc),(ps) (Entered: 07/21/2014)</p>   |