

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

SHONDELL KILLEBREW,

Plaintiff,

v.

HANS KUSTER and TIM IKERT,

Defendants.

ORDER

15-cv-52-jdp

Plaintiff Shondell Killebrew, a Milwaukee resident formerly incarcerated at the Oshkosh Correctional Institution, brings claims that he was forced to spend a month in a cold segregation cell. Each side has filed a motion for summary judgment. Dkt. 32 and 34.

Rather than respond to defendants' motion, plaintiff filed a motion to dismiss the case, at least in part "due to financial limitation." Dkt. 48. In an August 5, 2016, order, I explained to plaintiff that although it is his decision to decide whether to pursue this case given his finances, the only way I would dismiss the case without prejudice would be if defendants agreed. Dkt. 49. I gave defendants a chance to state whether they would agree to dismiss the case without prejudice. I also stated that if defendants did not agree to dismissal without prejudice, plaintiff would have a chance to withdraw his motion to dismiss. *Id.*

Defendants have responded, stating that they do not agree to dismissal without prejudice. Dkt. 50. Plaintiff has also responded, stating that he would like to withdraw his motion to dismiss. Dkt. 51. I will grant plaintiff's motion to withdraw his motion to dismiss and set a new briefing schedule for the parties' cross-motions for summary judgment. Because the summary judgment briefing will run into pretrial submission deadlines set forth in the

preliminary pretrial conference order, I will strike the remaining schedule and set new pretrial deadlines and a trial date should the case survive summary judgment.

ORDER

IT IS ORDERED that:

1. Plaintiff may have until September 30, 2016, to respond to defendants' motion for summary judgment. Defendants' reply deadline is October 11, 2016. The same deadlines will apply for defendants' response to and plaintiff's reply to plaintiff's motion for summary judgment.
2. The remaining schedule, including the November 7, 2016, trial date, is STRICKEN.

Entered August 30, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge