

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

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TYRONE DAVIS SMITH,

Plaintiff,

v.

WARDEN RANDALL R. HEPP,  
MANAGER CANDI WHITMAN  
and SECRETARY JON E. LITSCHER,

Defendants.

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ORDER

17-cv-396-bbc

Plaintiff Tyrone Davis Smith is proceeding on claims that defendants Randall Hepp, Candi Whitman and Jon Litscher violated his Eighth Amendment rights by failing to address a known risk to his health posed by contaminated water at the Fox Lake Correctional Institution. I have stayed this case pending the resolution of Stapleton v. Hepp, 16-cv-406-jdp (W.D. Wis. filed Jun. 10, 2016), which presents similar issues. Dkt. #16. Now before the court are plaintiff's motion for assistance in recruiting counsel and motion to hold that motion in abeyance until the stay is lifted. Dkt. ##21-22.

Although plaintiff recognizes that the stay prevents me from ruling on his motion for assistance in recruiting counsel, he explains that he has only \$1.36 in his legal loan account that must be used by the end of 2017, and he is not sure whether he will receive another legal loan for this case in 2018, which would prevent him from refileing a motion for

assistance in recruiting counsel after the stay is lifted. In light of this unique situation, I will deny plaintiff's motion for assistance in recruiting counsel without prejudice, but after the stay is lifted in this case, I will consider sua sponte whether to appoint counsel for plaintiff. Plaintiff's motion to hold in abeyance his request for assistance in recruiting counsel will be denied as unnecessary.

#### ORDER

IT IS ORDERED that

1. Plaintiff Tyrone Davis Smith's motion for assistance in recruiting counsel, dkt. #21, is DENIED without prejudice. The court will consider whether to appoint counsel for plaintiff sua sponte after the stay is lifted in this case.

2. Plaintiff's motion to hold his request for assistance in recruiting counsel in abeyance, dkt. #22, is DENIED.

Entered this 4th day of December, 2017.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge