

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 26, 2006

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2004AP2197

Cir. Ct. No. 2004CV2352

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN EX REL. MAURICE FORT-GREER,

PLAINTIFF-APPELLANT,

V.

**DEPARTMENT OF CORRECTIONS, JON LITSCHER,
MATTHEW FRANK, STEVEN B. CASPERSON,
STEVEN PUCKETT, SHARON ZUNKER, GEORGE
M. DALEY, TODD RILEY, THOMAS NICOLAI,
YOUNG KIM, GERALD BERGE, PETER A. HUIBREGTSE,
GARY BOUGHTON, CAPTAIN BLACKBOURN, LT. HORNER,
SGT. HUIBREGTSE, SGT. OROURLSE, CO II GRONDIN,
CO II HEIZE, CO II BELZ, LINDA MODDY, BRIAN
KOSL, TIM HAINES, VICKIE SABASTIAN, MARLA WALTER,
MR. CRAVEN, MR. EDWARDS, H. BOYLE, JOHN DOE
PHYSICIAN, WISCONSIN SECURE PROGRAM FACILITY,
J. HDRUKA, CPT. TIMM, QUINCY JONES, MIMI VALDEZ,
VIBE MAGAZINE, MIKE HAMMER, SAM SAYED,
BRET WATSON AND STUFF MAGAZINE-DENNIS STUFF, INC.,**

DEFENDANTS-RESPONDENTS.

APPEAL from orders of the circuit court for Dane County:
STEVEN D. EBERT, Judge. *Affirmed.*

Before Vergeront, Deininger and Higginbotham, JJ.

¶1 PER CURIAM. Maurice Fort-Greer, pro se, appeals a circuit court order dismissing his case as frivolous and an order denying his motion to reconsider. Fort-Greer argues that prison officials violated his rights under the Due Process Clause, the First Amendment, and Eighth Amendment. We affirm.

¶2 Fort-Greer contends that he was denied due process of law: (1) when he was demoted in the system used at the Wisconsin Secure Program Facility (WSPF) without a due process hearing; (2) when he was demoted to a lower level after being issued a conduct report for having food in his cell, even though the conduct report was subsequently dismissed; (3) when he was demoted to a lower level for being issued a conduct report for having expired medication in his cell, even though the conduct report was subsequently dismissed; (4) because there were various due process violations during three administrative confinement hearings; (5) because the prison refused to remove labeling from his prison papers that showed that he was a prior gang member; (6) because he was denied the right to be placed in protective custody; and (7) because he was given an incorrect security classification as part of a conspiracy to keep him in WSPF.

¶3 The Due Process Clause protects against state action that deprives a person of life, liberty, or property without due process of law. *See Casteel v. McCaughtry*, 176 Wis. 2d 571, 579, 500 N.W.2d 277 (1993) (citation omitted). The discipline of incarcerated prisoners triggers due process protections only if it affects a liberty interest. *See Sandin v. Conner*, 515 U.S. 472, 486-87 (1995). The discipline might affect a liberty interest if it “imposes atypical and significant

hardship on the inmate in relation to the ordinary incidents of prison life.” *Id.* at 484. Fort-Greer has not met the essential threshold showing that the alleged actions by prison officials implicated a protected liberty interest because the actions of which he complains do not impose “atypical and significant hardship” as that phrase is used in *Sandin*. Therefore, his due process claims are unavailing.

¶4 Fort-Greer also argues that the prison violated his Eighth Amendment right to be free from cruel and unusual punishment: (1) when it rejected his request for a “SPN,” which is apparently a designation that would have kept him separate from other inmates, thus preventing him from being threatened and beaten; (2) when it provided him inadequate medical treatment; and (3) when it was indifferent to his treatment once prescribed. In order to state a claim under the Eighth Amendment, a prisoner “must satisfy a test that involves both a subjective and objective component.” *Lunsford v. Bennett*, 17 F.3d 1574, 1579 (7th Cir. 1994). “The objective analysis focuses on the nature of the defendants’ acts, and whether the conditions they were forced to endure exceeded contemporary bounds of decency of a mature, civilized society.” *Id.* “The subjective component, really an inquiry into intent, requires us to ask whether the prison officials acted wantonly and with a sufficiently culpable state of mind.” *Id.* Fort-Greer has failed to state a claim under the Eighth Amendment because he has failed to allege facts that would suggest prison officials were aware of impending harm to which they were deliberately indifferent. *See id.*

¶5 Finally, Fort-Greer argues that prison officials violated his First Amendment rights by systematically discriminating against prisoners of African-American descent and denying him access to public TV shows. Fort-Greer’s claims are not sufficiently developed to merit further consideration. *See Roehl v.*

American Family Mut. Ins. Co., 222 Wis. 2d 136, 149, 585 N.W.2d 893 (Ct. App. 1998) (we may decline to review an issue inadequately briefed).¹

By the Court.—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

¹ The State argues that the circuit court correctly concluded that Fort-Greer's claims were frivolous. The State does not explain, however, why it is necessary that we also rule on whether the complaint was frivolous. Because it does not appear necessary that we address this question, we decline to do so.

