

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

DENNIS E. JONES 'EL, MICHA'EL
JOHNSON, DE'ONDRE CONQUEST,
LUIS NIEVES, SCOTT SEAL, ALEX
FIGUEROA, ROBERT SALLIE, CHAD
GOETSCH, EDWARD PISCITELLO,
QUINTIN L'MINGGIO, LORENZO
BALLI, DONALD BROWN, CHRISTOPHER
SCARVER, BENJAMIN BIESE, LASHAWN
LOGAN, JASON PAGLIARINI, and
ANDREW COLLETTE, and
all others similarly situated,

Plaintiffs,

v.

GERALD BERGE and
JON LITSCHER,

Defendants.

ORDER

00-C-421-C

On January 30, 2003, this court granted the motion of Foley & Lardner to appear as co-counsel for plaintiff Christopher Scarver “with respect to pending confinement issues.” On June 20, 2003, plaintiff Scarver filed a motion to reconsider and enforce this court’s June 21, 2002 order governing the placement of mentally ill prisoners. Because it appeared

that plaintiff Scarver had an appeal pending in the Court of Appeals for the Seventh Circuit, I issued an order on July 3, 2003, asking plaintiff Scarver to advise this court of the status of the appeal and its effect on this court's jurisdiction to hear his motion. Now plaintiff Scarver has written to confirm that appeal no. 02-2368 remains unresolved in the court of appeals, depriving this court of jurisdiction to consider his motion to reconsider the merits of the June 21, 2002 order entered in this case. He suggests that the appeal does not deprive this court of jurisdiction to enforce injunctions that have not been stayed pending appeal. See Union Oil Co. v. Leavell, 220 F.3d 562, 565 (7th Cir. 2002). I agree.

Therefore, IT IS ORDERED that the parties observe the following schedule for briefing only the question whether defendants are in compliance with this court's order of June 21, 2002, respecting plaintiff Scarver.

Defendants, co-plaintiffs, and Monitor Stephen Hurley may have until August 11, 2003, in which to respond to the motion.

Plaintiff Scarver may have until August 18, 2003, in which to serve and file a reply.

Entered this 23rd day of July, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge