

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

FREDERICK ROGERS,

Plaintiff,

ORDER

v.

01-C-0589-C

C.O. LOCKWOOD,

Defendant.

Defendant Lockwood has requested permission to withdraw his motion to dismiss grounded on plaintiff's alleged failure to exhaust his administrative remedies. The request will be granted. In fairness to plaintiff, however, defendant's counsel should arrange for plaintiff's inmate account to be credited for legal loans extended to plaintiff for the purpose of allowing him to oppose the motion. In this regard, I note that although plaintiff submitted documentary evidence to the court in opposition to defendant's motion, he did not mail a copy of the evidentiary materials to opposing counsel and thus did not incur copying expenses for evidentiary materials. Plaintiff explains in a letter dated June 4, 2003, that prison officials refused to copy these documents for him because he did not provide them with a "cover letter" from the court requesting the material. Plaintiff states that the

Racine Correctional Institution has implemented a new practice of requiring proof from the court that material a prisoner wants copied is actually necessary to the prisoner's case. In a letter dated June 4, 2003, he asks the court to schedule a conference call to discuss this matter. This request will be denied.

It is understandable that prison officials would want to insure that the state's legal loan privileges are not abused. However, it is likely that plaintiff is mistaken when he says that prison officials expect judges to write individual letters asking for legal loan disbursements on behalf of prisoner litigants. The court's letter of May 30, 2003, establishing the deadline within which plaintiff was to oppose defendant's motion to dismiss should have been sufficient to satisfy prison officials of plaintiff's need to submit evidentiary materials in opposition to the motion. Plaintiff does not say that he showed the appropriate prison officials a copy of the briefing schedule letter at the time he requested photocopies of the necessary documents.

Similarly, plaintiff complains that prison officials have refused to make copies of letters he received from two lawyers rejecting his request for free legal assistance with this case. He states that he wants to serve and file copies of those letters in support of a second motion for appointment of counsel so that he can show the court that he satisfied the requirement that he make a reasonable effort to find a lawyer on his own. However, plaintiff has not made a second motion for appointment of counsel. When he does, he should be able

to obtain copies of rejection letters without hindrance simply by showing prison officials this court's order of May 9, 2003, advising plaintiff of the need to make this required showing in connection with a new motion for appointed counsel.

ORDER

IT IS ORDERED that defendant's motion to withdraw his motion to dismiss is GRANTED.

Further, IT IS ORDERED that plaintiff's request for a conference call to discuss problems he is having obtaining photocopies of documents is DENIED.

Entered this 18th day of June, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge