

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

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RODOSVALDO POZO,

Plaintiff,

v.

ORDER

02-C-12-C

BRAD HOMPE, VICKI SHARPE,  
CAPT. BLACKBORN, WARDEN GERALD BERGE,  
ALL NURSES JANE DOES, SGT. JUNTSSEN,  
KELLD COON ICES, CAPT. RICHARDSON,  
SGT. KUFMOUSS, SGT. SICKINGER,  
JULIE BIGGAR, WARDEN BERGE, SGT.  
HUIBRETSZ, JON LITSCHER, SECRETARY A COKKS,  
PSYCHOLOGIST CHRISTINE APPEAL, SECURITY  
DIRECTOR BOUGHTON, C/O PINNEL, TIM HAINES,  
JOHN SHARPE, JOHN DOES 1-50, DR. GERT HUSSELHOF,  
(ELLE RAY RCES), MS. DUESTERBECK, JOANN GOVIER,  
C/O ECK, KELLY COON, and NURSE MS. RENEA,

Defendants.  
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Judgment was entered in this case on April 9, 2003. Shortly thereafter, plaintiff filed a notice of appeal. I granted plaintiff's request for leave to proceed in forma pauperis on appeal on May 15, 2003. Subsequently, defendants moved to alter or amend the judgment pursuant to Fed. R. Civ. P. 60. In their motion, defendants argued that this court

inadvertently or mistakenly failed to list defendant Secretary A. Cokks in the caption of the first substantive order in the case, the February 19, 2002, screening order, and compounded the error by not identifying Cokks as a defendant in the body of the February 19 order or at any other time while the action was pending, including the judgment of dismissal. In response to defendants' motion, I entered a memorandum dated June 17, 2003, asking the Court of Appeals for the Seventh Circuit to remand the case to this court so that I could consider the motion to alter or amend the judgment. I noted that although I did not have the file of the case, it appeared from a review of the February 19 order that I had identified every constitutional claim plaintiff raised and, as to those claims on which I allowed plaintiff to proceed, I had specified precisely against which defendants plaintiff had stated a claim for relief. Secretary A. Cokks was not a defendant so identified. Thus, I concluded from this review that I erred by failing to include Secretary A. Cokks in the caption of the order and by failing to list Secretary A. Cokks as a defendant who had been dismissed at the outset of the case.

On June 23, 2003, the court of appeals remanded the case "for the limited purpose of clarifying whether Secretary A. Cokks was a party to this action and, if so, whether plaintiff-appellant's claims against this defendant remain pending in the district court." When I received this order, I assumed that my memorandum of June 17 and the court of appeals' June 23 order had crossed in the mail and that the June 17 memorandum constituted clarification

that a remand for the purpose of ruling on the Rule 60 motion would be appropriate. Now, the court of appeals has entered an order directing counsel for the defendants to inquire when an order is expected from this court on the Rule 60 motion. It now appears clear that the court of appeals intended its June 23 remand to grant this court jurisdiction to rule on defendants' motion to alter or amend the judgment, if appropriate. I regret the misunderstanding and consequent delay.

Now, therefore, IT IS ORDERED that defendants' motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 60 is GRANTED.

The order entered in this case on February 19, 2002, is AMENDED to include Secretary A. Cokks in the caption of the order. In addition, the February 19 order is AMENDED on page 36, in the paragraph numbered 6, to include Secretary A. Cokks as a respondent who is dismissed from the case.

Finally, IT IS ORDERED that the clerk of court enter an amended judgment reflecting the dismissal of Secretary A. Cokks.

Entered this 16th day of October, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge