

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

ORDER

02-C-459-C

GEORGE DALEY, Director for the Bureau of Health Services; SHARON ZUNKER, Assistant Director of B.H.S.; MARC CLEMENTS, W.C.I.'s security director; BETH DITTMANN, Health Services Unit (H.S.U.) Supervisor at W.C.I.; PAM BARTELS, Supermax's H.S.U. Supervisor; DR. PHILLIPE BELGADO, Doctor at W.C.I.; DR. HASSELHOFF, doctor at Supermax; S. HOUSER, Captain at W.C.I.; WILLIAM SCHULTZ, staff at W.C.I.; KEN LANGE, nurse at Supermax; C.O. FRIDAY, guard at W.C.I.; and SGT. BURNS, a sergeant at W.C.I.;

Defendants.

Presently before the court is the motion of defendant Tracy Burns to be dismissed from this action. In support of the motion, defendant Burns explains that when plaintiff filed his complaint, he named as a defendant a "Sgt. Burns" who was working at the Waupun Correctional Institution. Pursuant to the agreement between the court and the Wisconsin Department of Justice in pro se prisoner cases, the department accepted service

of process on behalf of *Tracy* Burns, as she was the only “Burns” then employed at Waupun Correctional Institution. Thereafter, plaintiff confirmed that the Sgt. Burns he intended to sue was Sgt. *Robert* Burns who is no longer employed at the institution. To correct this error, the attorney general’s office has now accepted service of process on behalf of Sgt. *Robert* Burns and will be filing an answer on his behalf. Because the correct Sgt. Burns has been identified and served, and because plaintiff does not allege any constitutional wrongdoing on the part of *Tracy* Burns, Tracy Burns’s motion to dismiss should be granted.

ORDER

IT IS ORDERED that the motion of Tracy Burns to dismiss her from this action is GRANTED.

Entered this 26th day of June, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge