

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

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NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

STEVEN CASPERSON, MATTHEW FRANK,  
JON E. LITSCHER, LAURA WOOD,  
GERALD BERGE, PETER HUIBREGTSE,  
GARY BOUGHTON, VICKI SEBASTIAN,  
CPT. TIMOTHY HAINES, LINDA HODDY,  
CINDY O'DONNELL, LT. GARDINER,  
JULIE BIGGAR, SGT. HANKE, TODD OVERBO,  
SANDRA GRONDIN, JoANNE GOUIERE (JANE DOE),  
MIKE VANDERLOH, RON KOPLITZ, ELLEN RAY,  
GARY McCAUGHTRY, MARC CLEMENTS,  
DEBRA TETZLAFF, CPT. STEVE SCHUELER,  
C.O. WATSON, CHAPLAIN FRANCIS,  
BYRON BARTOW, KATHLEEN BELLAIRE,  
and STEVE SPANBAUER,

Defendants.  
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ORDER

02-C-473-C

In accordance with Magistrate Judge Stephen Crocker's preliminary pretrial conference order of August 31, 2004 and this court's order of September 27, 2004, plaintiff has submitted an amended complaint in which he substitutes in the caption and the body

of his complaint the names of Mike Vanderloh and Ron Koplitz for the defendants previously identified respectively as John Doe ##s 6 and 8. Enclosed with a copy of this order to defense counsel are two extra copies of plaintiff's amended complaint for informal service of process on defendants Vanderloh and Koplitz.

Separately, plaintiff has filed a "Notice and Motion to Dismiss Doe Defendant Without Prejudice," which I construe as a notice of voluntary dismissal of plaintiff's claim against the Doe defendant who allegedly used excessive force against plaintiff on April 8, 2002. In support of his motion, plaintiff states that he is having difficulty identifying this Doe defendant and that, in any event, he prefers to focus his attention on the several claims in the complaint alleging violations of his rights to freely exercise his religion. In response to this motion, counsel for the existing defendants has written to state that defendants do not object to a dismissal of plaintiff's excessive force claim without prejudice. Therefore, I will grant plaintiff's motion for voluntary dismissal of this claim.

#### ORDER

IT IS ORDERED that plaintiff's amended complaint submitted on October 6, 2004, is the operative pleading in this action. Duplicate copies of the amended complaint are enclosed to the Attorney General for informal service of process on the newly added defendants, Mike Vanderloh and Ron Koplitz. Unless on or before October 30, 2004, the

existing defendants submit a revised response to the amended complaint, I will assume that they are standing on their response to plaintiff's earlier complaint as their response to the amended complaint. Although the newly added defendants Vanderloh and Koplitz are entitled under this court's informal service agreement to delay their response to the amended complaint until 40 days from the date today's date (the date on which copies of the complaint are mailed to the Attorney General), in light of the advanced age of this lawsuit, I am requesting that defendants Vanderloh and Koplitz submit their answer to plaintiff's complaint as promptly as they are able to do so.

Further, IT IS ORDERED that plaintiff's motion to dismiss voluntarily his claim that an unidentified Doe defendant used excessive force against him on April 8, 2002, is GRANTED. This claim is DISMISSED without prejudice to petitioner's filing a new lawsuit relating to this incident at a future date.

Entered this \_\_\_\_\_ day of October, 2004.

BY THE COURT:

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BARBARA B. CRABB  
District Judge