

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

WILLIAM SCOTT SELDEN,

Plaintiff,

MEMORANDUM

v.

03-C-332-C

SHERIFF DENNIS HILLSTEAD,
DEPUTY CARMEN HANSEN, CAPT.
KAREN HUMPHRIES, and NURSE SUE LINDBERG

Defendants.

This is a civil proceeding in which plaintiff was granted leave to proceed in forma pauperis on a claim that defendants gave him another inmate's medication on February 19, 2003, causing him to suffer an allergic reaction. Shortly after defendants answered the complaint, the court and defendants' counsel lost contact with plaintiff. The case was dismissed without prejudice on October 22, 2003, for plaintiff's failure to prosecute. Now plaintiff has written the court to ask what he needs to do to reopen the case. In addition, plaintiff asks whether he might be allowed to amend his complaint to add two more defendants.

I am hesitant to permit plaintiff to reopen his case, given his earlier abandonment of the lawsuit with no notice to the court and opposing counsel. It is the obligation of every party to a lawsuit to notify the court and opposing counsel immediately of any change in address. Therefore, before this case will be reopened, plaintiff will have to file a motion to reopen and convince me that he is prepared to take this obligation seriously and that he will diligently litigate this case to completion. Plaintiff should take special note that if I grant his motion to reopen and he fails to keep the court and opposing counsel aware of his whereabouts, this case will be dismissed with prejudice. In other words, the dismissal would serve as an adjudication on the merits of plaintiff's complaint in defendants' favor.

Also, plaintiff should be aware that if he wants to amend the complaint to add new defendants, his motion to reopen must be accompanied by a proposed amended complaint that will take the place of the one previously filed. In the amended complaint, plaintiff must include all of the allegations made in the initial complaint. He must draw a line through the allegations that he no longer wishes the court to consider. (For example, a plaintiff might decide not to pursue his claim against a previously named defendant. Plaintiff should draw a line through all allegations pertaining to that particular defendant.) Plaintiff must highlight all new allegations that he is adding to the complaint. It must be very clear to the court which allegations are new and which ones are old, as well as which ones plaintiff is dropping. Plaintiff is not to add new allegations that have nothing to do with those made

in his earlier complaint. If plaintiff is adding defendants, he should be sure to allege how each named defendant was involved personally in intentionally giving him the wrong medication. If the amended complaint does not contain allegations from which an inference can be drawn that the person or persons that plaintiff wants to add either handed him the wrong medication or direct that he receive the wrong medication, then plaintiff will not be allowed to proceed against the proposed new defendant. As I told plaintiff in the order granting him leave to proceed, he cannot maintain an action in this court against persons who did not personally participate in the wrongdoing about which he complains.

Entered this 8th day of November, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge