

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

LEON IRBY,

Plaintiff,

v.

ORDER

03-C-346-C

HONORABLE TOMMY G. THOMPSON, Governor;
JON E. LITSCHER, Secretary, DOC;
CINDY O'DONNELL, Deputy Secretary, DOC;
DICK VERHAGEN, Administrator, DOC;
RICHARD SCHNEITER, Security Chief, DOC;
STEVEN SCHNEITER, Deputy Administrator,
Contract Specialist and Liason, DOC;
JAN MINK, Corrections Contract Specialist for
DOC;
STEVEN M. PUCKETT, Director, Office of Offender
Classification, DOC;
JHON RAY, Corrections Complaint Examiner (CCE), DOC;
SHARON K. ZUNKER, Director, Bureau of Health Services, DOC;
MARIANNE COOKE, Deputy Administrator, DOC;
GERALD BERGE, Warden, SMCI;
PETER HUIBREGTSE, Deputy Warden, SMCI;
JAMES PARISI, Security Director, SMCI;
TIM HAINES, Echo Unit Manager, SMCI;
GARY BLACKBOURN, Captain of Correctional Officers;
REED RICHARDSON, Captain of Correctional Officers;
LIEUTENANT HORNEL, Lt. of Correctional Officers;
GARY BOUGHTON, Security Director, SMCI;
TRINA HANSON, Program Review Committee Coordinator;
TIM HARIG, Education Department Director, SMCI;
LOUNDA CLARY, Administrative Confinement Review

Committee (ACRC) Member, SMCI;
MARLA K. WARERS, ACRC Member, SMCI;
DEBORAH BLACKBOURN, ACRA Member, SMCI;
YVETTE DUESTERBECK, Registrar of Records, SMCI;
H. BLOYER, Record Office Staff III, SMCI;
RON L. EDWARDS, Social Worker, SMCI;
JOHN BELL, Inmate Complaint Examiner (ICE), SMCI;
JULIE BIGGER, ICE, SMCI;
TOM GONZINSKI, ICE, SMCI;
KELLY COON, ICE, Program Assistant, SMCI;
ELLEN RAY, ICE, SMCI;
PAMELA BARTELS, Health Services Unit (HSU) Manager, SMCI;
LIEUTENANT HORNER, Lt. of Correctional Officers, SMCI;
JOHN and JANE DOES 1-100,

Defendants.

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In 2003, plaintiff filed this suit in the Circuit Court for Dane County, Wisconsin. Subsequently, it was removed to this court. The complaint was 422 paragraphs long. Plaintiff sought relief for multiple alleged violations of state and federal law against 34 named defendants and between 1 and 100 John and Jane Does. When I screened the complaint, I allowed plaintiff to proceed on five claims and dismissed the rest. Later, I withdrew leave to proceed on one of the five claims. The remaining four were resolved in defendants' favor on their motion for summary judgment. Judgment dismissing the case was entered on July 23, 2004. Plaintiff did not take an appeal.

Now plaintiff has moved to reopen the case. In support of his motion, plaintiff points

out that one of the claims I dismissed in the screening order may be viable now that the Supreme Court has decided Wilkinson v. Austin, 125 S.Ct. 2384 (2005). In particular, plaintiff asserts that I should reconsider the dismissal of his claim that it was a violation of his procedural due process rights for prison officials to transfer him from Leavenworth to the Wisconsin Secure Program Facility without a pre-transfer hearing. Plaintiff's motion to reopen this case will be denied, because the decisions I made in 2003 were consistent with the law as it existed at that time and constitute the law of the case.

ORDER

IT IS ORDERED that plaintiff's motion to reopen this case is DENIED.

Entered this 6th day of December, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge