IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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JESSIE THOMAS # 263550,

Petitioner,

v.

CORRECTIONS CORPORATION OF AMERICA, PERCY PITZER, DONALD JACKSON, CAROLYN McGRAW, WILLIE CLEMMONS, KENNY NUNN, WILLIAM CRAFT, C/O CROON, C/O JULIE BASS, ROY FISHER, OFFICER JOHN DOE #1, OFFICER JOHN DOE #2 and OFFICER JOHN DOE #3,

Respondents.

OPINION & ORDER

03-C-44-C

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This is a proposed civil action for monetary, declaratory and injunctive relief, brought under 42 U.S.C. § 1983. Petitioner, who is presently confined at the Wisconsin Secure Program Facility in Boscobel, Wisconsin, asks for leave to proceed under the in forma pauperis statute, 28 U.S.C. § 1915. From the financial affidavit petitioner has given the court, I conclude that petitioner is unable to prepay the full fees and costs of starting this lawsuit. Petitioner has paid the initial partial payment required under § 1915(b)(1).

In addressing any pro se litigant's complaint, the court must read the allegations of the complaint generously. See Haines v. Kerner, 404 U.S. 519, 521 (1972). However, if the litigant is a prisoner, the 1996 Prison Litigation Reform Act requires the court to deny leave to proceed if the prisoner has had three or more lawsuits or appeals dismissed for lack of legal merit (except under specific circumstances that do not exist here), or if the prisoner's complaint is legally frivolous, malicious, fails to state a claim upon which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages. This court will not dismiss petitioner's case on its own motion for lack of administrative exhaustion, but if respondents believe that petitioner has not exhausted the remedies available to him as required by § 1997e(a), they may allege his lack of exhaustion as an affirmative defense and argue it on a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). See Massey v. Helman, 196 F.3d 727 (7th Cir. 1999); see also Perez v. Wisconsin Dept. of Corrections, 182 F.3d 532 (7th Cir. 1999).

In his complaint, petitioner alleges the following facts.

ALLEGATIONS OF FACT

Petitioner Jessie Thomas is a Wisconsin prisoner currently confined at the Wisconsin Secure Program Facility in Boscobel, Wisconsin. At all times relevant to his proposed complaint, petitioner was temporarily housed at the Whiteville Correctional Facility in

Whiteville, Tennessee under contract with the State of Wisconsin. Respondent Corrections Corporation of America owns and operates the Whiteville Correctional Facility. All the other respondents are employed at the Whiteville prison. Respondent Percy Pitzer is the warden; respondent Donald Jackson is a program manager; respondent Carolyn McGraw is a program review coordinator; and respondents Kenny Nunn, William Clemmons, C/O Croon, Julie Bass, Roy Fisher and John Does numbers 1, 2 and 3 are correctional officers.

On March 24, 1998, petitioner was transferred against his will to the custody of respondent Corrections Corporation of America, which had contracted with the Wisconsin Department of Corrections to house Wisconsin inmates. Petitioner was housed at the Whiteville Correctional Facility in Whiteville, Tennessee. On November 30, 1999, a riot broke out at the prison while petitioner was eating lunch in the cafeteria. Petitioner stayed seated during the riot. Not long after the riot began, a "S.O.R.T. team" of officers dressed in riot gear burst into the cafeteria in an effort to regain control of the prison. The S.O.R.T. team disbursed more than 30 cans of chemicals and tear gas in the cafeteria. Petitioner was ordered to crawl on his knees and stomach through broken glass, discarded food, blood and other debris. As a result, he incurred cuts and abrasions and had difficulty breathing. The first Doe respondent hit petitioner between his shoulders and lower back and the second and third Doe respondents kicked petitioner repeatedly in the back, shoulders and ribs and eventually placed him in hand cuffs. Petitioner was then forced to crawl for another quarter

of a mile to the segregation unit. Petitioner was placed in a two-man segregation cell with three additional inmates. He was stripped of all clothing for 15 hours and then provided only a pair of boxer shorts. Petitioner was given no other clothing for 11 days and was not given a shower for 10 days even though he had been exposed to chemical agents. Petitioner received inadequate medical treatment for his cuts and abrasions. Petitioner still suffers pain in his lower back and has problems breathing and with his skin and eyes.

Respondent Corrections Corporation of America knew of other incidents in which a S.O.R.T. team rammed a shampoo bottle up the rectum of an inmate and severely beat other Wisconsin inmates.

On November 30, 1999, respondents Jackson and Fisher placed plaintiff in the temporary lock-up unit for inadequate reasons and kept him there beyond the 21-day time limit established by the Wisconsin administrative code. The prison security director did not review petitioner's confinement in the temporary lock-up unit every seven days as required by the code.

On December 9, 1999, respondent Corrections Corporation of America issued petitioner a major disciplinary report for allegedly violating various prison rules during the riot. The rules petitioner allegedly violated were not authorized or properly promulgated by the Wisconsin legislature. Respondent Corrections Corporation of America is a private entity and has no authority to discipline petitioner under its own rules because petitioner

has the right to be governed by the rules in section 303 of Wisconsin's administrative code. Respondent Jackson conducted petitioner's disciplinary hearing and denied petitioner's right to gather evidence, have an advocate appointed and have witnesses testify in his behalf. Respondents McGraw and Jackson were not impartial decision makers because McGraw's husband and Jackson had been directly involved in the riot. This caused petitioner to lose good time credits. Respondent Jackson violated petitioner's rights by sentencing him to 120 days program segregation without reason. Respondents Pritzer, McGraw and Fisher violated a host of procedural protections provided petitioner by the Wisconsin Administrative Code when they approved petitioner's transfer to the Wisconsin Secure Program Facility (then known as the Supermax Correctional Institution) on December 9, 1999.

OPINION

A. Due Process

This is not the first complaint petitioner has filed in this court containing these allegations. In May 2000, petitioner and several other prisoners filed a complaint raising a variety of claims arising out of the November 30, 1999 riot at the Whiteville Correctional Facility. Pursuant to the Prison Litigation Reform Act's screening mechanism, see 28 U.S.C. § 1915A, I granted the plaintiffs in that case leave to proceed on some claims and denied them leave to proceed on others in an opinion and order dated June 12, 2000. See

Winters v. Litscher, case no. 00-C-318-C. I denied the plaintiffs leave to proceed on their due process claims arising out of disciplinary and program review hearings that were alleged to be procedurally deficient. Specifically, I noted that

> Plaintiffs' allegations do not establish that they were deprived of a protectible liberty interest. A procedural due process violation against government officials requires proof of inadequate procedures *and* interference with a liberty or property interest. See Kentucky Dept. of Corrections v. Thompson, 490 U.S. 454, 460 (1989). Plaintiffs allege that they were given 90 or 120 days' disciplinary segregation and transferred to the Supermaximum prison. . . . "A prisoner has no due process right to be housed in any particular facility" and even a transfer to a prison with a more restrictive environment does not implicate his due process rights because the prisoner could have been placed in the more restricted institution initially. Whitford v. Boglino, 63 F.3d 527, 532 (7th Cir. 1995). In Sandin v. Conner, 515 U.S. 472, 483-484 (1995), the Supreme Court held that liberty interests "will be generally limited to freedom from restraint which . . . imposes [an] atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." After Sandin, in the prison context, protectible liberty interests are essentially limited to the loss of good time credits because the loss of such credit affects the duration of an inmate's sentence. See Wagner v. Hanks, 128 F.3d 1173, 1176 (7th Cir. 1997) (when sanction is confinement in disciplinary segregation for period not exceeding remaining term of prisoner's incarceration, Sandin does not allow suit complaining about deprivation of liberty). Because plaintiffs have no liberty interests that have been violated, they have no right to due process before being placed in disciplinary segregation or reclassified to Supermaximum Correctional Institution.

Id. at 19-20. Petitioner's allegations in this complaint are materially identical to the due process claims he raised in Winters and that I dismissed for failure to state a claim. Petitioner's due process claims have no more merit now than they did two years ago.

However, there is one new twist. Petitioner now alleges that he was deprived of good time credits as a result of the allegedly deficient disciplinary hearings, raising the prospect

that petitioner may have been deprived of a protectible liberty interest within the meaning of Sandin. Petitioner asks that his good time credits be restored immediately. Petitioner filed his complaint under 42 U.S.C. § 1983. However, a petition for a writ of habeas corpus under 28 U.S.C. § 2254 "is the exclusive remedy for a state prisoner who challenges the fact or duration of his confinement and seeks immediate or speedier release." Heck v. Humphrey, 512 U.S. 477, 481 (1994) (citing Preiser v. Rodriguez, 411 U.S. 475, 488-90 (1973)). The Court of Appeals for the Seventh Circuit has held that "when a plaintiff files a § 1983 action that cannot be resolved without inquiring into the validity of confinement, the court should dismiss the suit without prejudice" for failure to state a claim upon which relief may be granted rather than convert it into a petition for habeas corpus under § 2254. Copus v. City of Edgerton, 96 F.3d 1038, 1039 (7th Cir. 1996) (citing Heck, 512 U.S. 477). Accordingly, petitioner cannot seek the restoration of his good time credits in this action. Nor can he seek money damages for the alleged deprivation of his good time credits in this suit. When a petitioner questions the loss of good time credits as a result of a prison disciplinary hearing, a decision by the court whether the petitioner's due process rights were violated might imply that his disciplinary sentence and the loss of his good time credits or credit-earning status was invalid, even if petitioner is seeking only money damages. The effect is the same as if the petitioner were seeking to have his good-time credits restored. This prevents petitioner from proceeding under § 1983. Montgomery v. Anderson, 262 F.3d

641, 644 (7th Cir. 2001) (citing Edwards v. Balisok, 520 U.S. 641, 648 (1997) (Fourteenth Amendment due process claim for money damages "that necessarily impl[ies] the invalidity of the punishment imposed is not cognizable under § 1983")). Accordingly, petitioner cannot raise his claim for money damages in a § 1983 suit such as this one until he can show that he has succeeded in having his disciplinary sentence "reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus" under 28 U.S.C. § 2254. Heck v. Humphrey, 512 U.S. 477, 487 (1994). Petitioner has not made the required showing and thus cannot proceed under § 1983.

B. Eighth Amendment

1. Venue

Petitioner's proposed complaint also alleges violations of his Eighth Amendment rights. In Winters, I granted petitioner leave to proceed on his claim that three John Doe guards violated his rights under the Eighth Amendment by using excessive force against him during the riot. I also allowed petitioner to proceed on a claim that he was subjected to conditions of confinement that violated the Eighth Amendment when he was forced to stay for days in an overcrowded cell without proper clothing and was denied a shower for a week after crawling through blood and debris and being sprayed with chemical agents. These

allegations are more or less identical to the allegations contained in petitioner's current proposed complaint. After petitioner was granted leave to proceed on these claims in the summer of 2000, I attempted to ascertain whether he and each of his co-plaintiffs had properly exhausted their administrative remedies as required by 42 U.S.C. § 1997e(a). I concluded ultimately that I did not have enough information to determine whether petitioner and his co-plaintiffs had exhausted their administrative remedies and therefore would not dismiss sua sponte those claims on exhaustion grounds. However, I noted that defendants would be free to file a motion to dismiss challenging the plaintiffs' satisfaction of the exhaustion requirement.

Shortly thereafter, petitioner and his co-plaintiffs filed a motion seeking transfer of their case to the United States District Court for the Western District of Tennessee, a motion that I granted in an order dated October 31, 2000. Subsequently, the Tennessee court severed each of the individual plaintiff's claims, opened a separate case for each plaintiff and gave each plaintiff an opportunity to avoid paying the filing fee for his case by voluntarily withdrawing from the action. The court noted that if a plaintiff chose not to voluntarily withdraw, his case would have to be dismissed for failure to plead exhaustion of administrative remedies in the complaint. See Thomas v. Blanchett, case no. 1-01-1068, slip op. at 8-9 (W.D. Tenn. Feb. 13, 2001).

This procedural history raises the question why the Tennessee court dismissed

petitioner's complaint sua sponte for failure to exhaust his administrative remedies when, on the basis of the same information, this court had granted petitioner leave to proceed on his Eighth Amendment claims because it was unclear whether he had exhausted those remedies. The answer lies in a circuit split on the question of the pleading requirements in prisoner civil rights cases. The Court of Appeals for the Seventh Circuit does not regard the exhaustion requirement as a jurisdictional prerequisite. See Massey v. Helman, 196 F.3d 727, 732 (7th Cir. 1999). Moreover, in the Seventh Circuit, exhaustion is an affirmative defense that the defendants have the burden of pleading and proving. Id. at 735. Not so in the Sixth Circuit. In Knuckles 'El v. Toombs, 215 F.3d 640, 642 (6th Cir. 2000), the Court of Appeals for the Sixth Circuit held that "a prisoner must plead his claims with specificity and show that they have been exhausted by attaching a copy of the applicable administrative disposition to the complaint or, in the absence of written documentation, describe with specificity the administrative proceeding and its outcome." Moreover, there is language in Knuckles 'El suggesting that this heightened pleading standard is justified because the exhaustion requirement is jurisdictional. See id. ("In the absence of specific averments, a district court must hold an evidentiary hearing or otherwise spend a lot of time with each case just trying to find out whether it has jurisdiction to reach the merits."). This is how the district judge in Tennessee read Knuckles 'El. See Thomas, case no. 1-01-1068, slip op. at 6 ("Knuckles 'El indicates that [the exhaustion] inquiry is jurisdictional.").

Because petitioner "failed to plead proper exhaustion of administrative remedies prior to the commencement of this action," the Tennessee court dismissed his case without prejudice.

Rather than refiling his case in the Tennessee court along with proof that he had exhausted any available administrative remedies, petitioner has returned to this court. Although petitioner has submitted a thick stack of documents including some institutional complaints, these documents all deal with his due process claims on which he has been denied leave to proceed. Petitioner has still produced no evidence that he has exhausted his administrative remedies on his Eighth Amendment claims. This implies that petitioner is shopping for a forum that does not have the heightened pleading standards for prisoner cases found in the Sixth Circuit. This possibility grows stronger when one considers that all the events giving rise to petitioner's claims took place in Tennessee and all the individual respondents named in petitioner's proposed complaint are employed at the Tennessee prison. In short, the allegations in petitioner's complaint appear to have no connection to the state of Wisconsin. Indeed, when petitioner filed this case in this court for the first time back in May 2000, it was he and his co-plaintiffs who asked later that it be transferred to Tennessee because of improper venue.

All of these facts suggest that in an effort to avoid demonstrating up front that he has exhausted his administrative remedies, petitioner has filed his case in an improper venue. Under 28 U.S.C. § 1391(b), a civil rights action "may, except as otherwise provided by law,

be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought." The allegations in petitioner's complaint suggest that his case does not fit into any of these categories. Although defects in venue and personal jurisdiction can be waived, it seems likely that even if petitioner is allowed to proceed in this case, it will soon be headed back to Tennessee.

I am reluctant to invest further judicial resources in screening a complaint that is materially identical to one that petitioner asked this court to transfer for improper venue nearly three years ago and that the transferee court dismissed for petitioner's failure to plead exhaustion. However, it is generally improper for a court to dismiss a case for improper venue on its own motion without giving the parties an opportunity to be heard on the issue. See, e.g., Stjernholm v. Peters, 83 F.3d 347, 349 (10th Cir. 1996) (A "case should not be dismissed or transferred on the ground venue is improper, [unless] the district court gives all parties adequate notice and an opportunity to respond. This procedure gives the plaintiff the opportunity to contest the dismissal or transfer and allows the defendants the opportunity to prevent dismissal or transfer by waiving venue."). I could order plaintiff to show cause why his complaint should not be dismissed for improper venue, but because

respondents have not been served with the complaint, and in some cases have not even been identified, they would not have the opportunity to waive venue, however unlikely such a choice might be. Moreover, because petitioner's complaint was dismissed without prejudice by the Tennessee court, he is not precluded from refiling it. Therefore, I will screen petitioner's complaint. However, he should be aware that if respondents show that this case has been brought in the wrong venue, I will dismiss it rather than transfer it to the Tennessee court yet again.

2. State actor requirement

As an initial matter, to state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that he was deprived of a constitutional right and that a person acting under color of state law deprived him of such right. See Gomez v. Toledo, 446 U.S. 635, 640 (1980). Respondents in this action are the Corrections Corporation of America, which is a private enterprise, and its employees. This fact might suggest that all of petitioner's claims could be dismissed summarily for failure to meet the state actor requirement. However, courts have determined that respondent Corrections Corporation of America and its employees are "state actors" under § 1983. See, e.g., Street v. Corrections Corp. of America, 102 F.3d 810, 814 (6th Cir. 1996) (firm operating prison is state actor because firm performed "traditional state function" of operating a prison). Accordingly, it would be

inappropriate to dismiss petitioner's action on this ground.

3. Excessive force

Petitioner alleges that three Doe respondents kicked and beat him repeatedly in the back, shoulders and ribs when they attempted to quell a riot in which petitioner was not a participant. Because prison officials must sometimes use force to maintain order, the central inquiry for a court faced with an excessive force claim is whether the force "was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." Hudson v. McMillian, 503 U.S. 1, 6-7 (1992). "When prison officials maliciously and sadistically use force to cause harm, contemporary standards of decency always are violated . . . whether or not significant injury is evident." Id. at 9 (citations omitted). To determine whether force was used appropriately, a court considers factual allegations revealing the safety threat perceived by the officers, the need for the application of force, the relationship between that need and the amount of force used, the extent of the injury inflicted and the efforts made by the officers to mitigate the severity of the force. Whitley v. Albers, 475 U.S. 312, 321 (1986); see also Soto v. Dickey, 744 F.2d 1260, 1270 (7th Cir. 1984):

> [I]t is a violation of the Eighth Amendment for prison officials to use mace or other chemical agents in quantities greater than necessary or for the sole purpose of punishment or the infliction of pain. . . . The use of mace, tear gas

> or other chemical agent of [] like nature when reasonably necessary to prevent riots or escape or to subdue recalcitrant prisoners does not constitute cruel and inhuman punishment, and this is so whether the inmate is locked in his prison cell or is in handcuffs. . . . [T]he use of nondangerous quantities of the substance in order to prevent a perceived future danger does not violate 'evolving standards of decency' or constitute an 'unnecessary and wanton infliction of pain.'

(Internal citations omitted).

In this case, petitioner alleges that excessive force was used against him while prison officials were attempting to quell a prison riot. Because the disturbance team, which I understand to be composed of the Doe respondents, was attempting to subdue a riot, it may have been constitutional for them to use more force than would be appropriate in a less volatile situation. Nevertheless, petitioner's allegations state a claim that respondent John Doe numbers 1, 2 and 3 used excessive force against him in violation of the Eighth Amendment. In addition, because respondent Pitzer is the warden at the prison where the Doe respondents are employed, petitioner will be allowed to proceed against Pitzer on this claim for the sole purpose of discovering the identities of the three Doe respondents. Once petitioner learns the names of the persons directly responsible for allegedly beating him, he will have to amend his complaint to name those individuals as respondents and serve them with the complaint.

4. Failure to protect

I understand petitioner to allege that as a matter of policy, respondent Corrections Corporation of America either trained its disturbance teams to use excessive force in controlling inmates or that it knew that its disturbance teams had a history of abusing Wisconsin inmates but did nothing to protect petitioner from similar mistreatment. See Street, 102 F.3d at 817 (plaintiff cannot rely on vicarious liability in § 1983 action, but must show action undertaken pursuant to policy or custom). Although petitioner has an uphill battle in obtaining evidence to prove such a claim, I cannot say at this early stage of the proceedings that he could prove no set of facts entitling him to relief. Therefore, petitioner will be allowed to proceed on this claim.

4. Conditions of confinement

Petitioner alleges he was stripped of all clothing for 15 hours following the riot and then provided only a pair of boxer shorts, was given no other clothing for 11 days and was not given a shower for 10 days even though he had been exposed to chemical agents. An Eighth Amendment conditions of confinement claim requires a sufficiently serious deprivation that "result[s] in the denial of 'the minimal civilized measure of life's necessities.'" Farmer v. Brennan, 511 U.S. 825, 834 (1994) (quoting Rhodes v. Chapman, 452 U.S. 337, 347 (1981)). Because the Eighth Amendment draws its meaning from evolving standards of decency in a maturing society, there is no fixed standard to determine when conditions

are cruel and unusual. Id. at 346. "Conditions, alone or in combination, that do not . . . fall below the contemporary standards of decency are not unconstitutional, and 'to the extent that such conditions are restrictive and even harsh, they are part of the penalty that criminal offenders pay for their offenses against society.'" Caldwell v. Miller, 790 F.2d 589, 601 (7th Cir. 1986) (quoting Rhodes, 452 U.S. at 347). "The Constitution does not mandate that prisons be comfortable, and a prison . . . which houses persons convicted of serious crimes and who have demonstrated a propensity to violence or escape cannot be free of discomfort." Id. At this early stage of the proceedings, petitioner's allegations that he was left entirely unclothed for 15 hours, was given only a pair of boxer shorts to wear for the next 11 days and was not allowed to shower for 10 days following his exposure to chemical agents state a claim under the Eighth Amendment.

However, petitioner has alleged simply that "all" the respondents refused to provide him with clothes and a shower, which is implausible. It is well established that liability under § 1983 must be based on the defendant's personal involvement in the constitutional violation. See Gentry v. Duckworth, 65 F.3d 555, 561 (7th Cir. 1995); Del Raine v. Williford, 32 F.3d 1024, 1047 (7th Cir. 1994); Morales v. Cadena, 825 F.2d 1095, 1101 (7th Cir. 1987); Wolf-Lillie v. Sonquist, 699 F.2d 864, 869 (7th Cir. 1983). It is not necessary that the defendant participate directly in the deprivation; the official is sufficiently involved "if she acts or fails to act with a deliberate or reckless disregard of plaintiff's

constitutional rights, or if the conduct causing the constitutional deprivation occurs at her direction or with her knowledge and consent." Smith v. Rowe, 761 F.2d 360, 369 (7th Cir. 1985). Although petitioner does not identify which prison officials subjected him to unconstitutional conditions of confinement, his failure to do so is not necessarily a barrier to the initiation of his action. See Duncan v. Duckworth, 644 F.2d 653, 655-56 (7th Cir. 1981) (explaining that a prisoner may name a high-level prison official as a defendant to uncover through discovery the names of persons directly responsible). At this stage of the proceedings, petitioner will be allowed to proceed against defendant Pitzer on this claim. The respondents against whom petitioner has not made specific allegations will be dismissed. However, if petitioner discovers that they or others were personally involved in the alleged violations of his Eighth Amendment rights, he may amend his complaint to add specific allegations against them and then serve them with the complaint.

ORDER

IT IS ORDERED that

1. Petitioner Jesse Thomas is GRANTED leave to proceed against respondents John Doe numbers 1, 2 and 3 on his Eighth Amendment excessive force claim. Petitioner is allowed to proceed against respondent Pitzer on this claim as well for the sole purpose of

discovering the identities of the Doe defendants.

2. Petitioner is GRANTED leave to proceed against respondent Corrections Corporation of America on his claim that it failed to protect him in violation of the Eighth Amendment;

3. Petitioner is GRANTED leave to proceed on his claim that he was subjected to conditions of confinement that violated the Eighth Amendment. Petitioner may proceed against respondent Pitzer on this claim for the purpose of discovering the identities of the responsible prison officials;

4. All of petitioner's other claims are DISMISSED as frivolous;

5. Respondents Donald Jackson, Carolyn McGraw, Willie Clemmons, Kenny Nunn, William Craft, C/O Croon, C/O Julie Bass and Roy Fisher are DISMISSED from this case;

6. The unpaid balance of petitioner's filing fee is $146.28; this amount is to be paid in monthly payments according to 28 U.S.C. § 1915(b)(2); and

7. Petitioner should be aware of the requirement that he send respondents a copy of every paper or document that he files with the court. Once petitioner has learned the identity of the lawyer who will be representing respondents, he should serve the lawyer directly rather than respondents. Petitioner should retain a copy of all documents for his own files. If petitioner does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents. The court will disregard any papers

or documents submitted by petitioner unless the court's copy shows that a copy has gone to respondents or to respondents' attorney.

Entered this 27th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge