

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

LOUIS NIEVES,

Plaintiff,

v.

JON LITSCHER,
MICHAEL CATALANO,
PRISON HEALTH SERVICES, INC.,
PAM BARTELS,
JOHN DOES 1, 34, 35, 36, 37, 39, 82, 84, A, D and E;
and GERALD A. BERGE,

Defendant.

ORDER

04-C-163-C

Cole v. Litscher, 04-C-116-C, is a lawsuit that was transferred to this district from the District Court for the Eastern District of Wisconsin. When it was transferred, there were 14 plaintiffs, all prisoners or former prisoners in the Wisconsin prison system. In an order dated March 15, 2004, I severed the claims of the several plaintiffs, including those of plaintiff Louis Nieves. In an effort to insure that each individual pro se plaintiff was aware of the claims that had been raised on his behalf, I instructed the plaintiffs to submit, no later than April 9, 2004, individual proposed pleadings setting forth only those claims on which

they had been allowed to proceed and identifying all defendants who allegedly committed the acts about which they complained. I advised the plaintiffs that when I received their amend pleadings, I would review them to insure they were limited to the claims on which each had been granted leave to proceed. I advised the plaintiffs that if they were still unable to identify the defendants they described as Doe defendants almost two years ago when the original complaint was filed, I would dismiss the claims for which no defendant had been identified.

On April 5, 2004, plaintiff Louis Nieves submitted a letter to this court, in which he acknowledged that he was aware that the Cole case had been transferred to this district. However, it was apparent from his letter that he was unaware that the claims of the individual plaintiffs had been severed and that he was under an April 9 deadline to submit a proposed amended pleading identifying his claims and the defendants who were allegedly responsible for violating his constitutional rights. The envelope bearing Nieves' communication showed a return address different from the one in the court's record, suggesting further reason to believe that plaintiff Nieves had not received this court's March 15 order. This was noticed by staff in the office of the clerk of court, who immediately entered the new address on the court's docket and re-mailed the March 15 order to plaintiff Nieves at the new address.

Because the March 15 order was not mailed to plaintiff Nieves at the proper address

until April 5, 2004, there is no question that he could not respond to the order by the April 9 deadline. Therefore, I will grant plaintiff Nieves an enlargement of time to comply with the requirements of the March 15 order.

ORDER

IT IS ORDERED that plaintiff Louis Nieves may have an enlargement of time to April 30, 2004, in which to submit a proposed pleadings setting forth only those claims on which he has been allowed to proceed and identifying all defendants who allegedly committed the acts about which he complains. Upon receipt of the amended pleadings, I will review it to insure that it is limited to the claims for which this court and Judge Adelman have allowed plaintiffs to proceed and, if it is, I will direct that the relevant document be filed as the operative pleading in this case and direct that all new defendants be served and that the previously named defendants file a response to the amended pleading. If plaintiff Nieves is unable to identify the defendants he described originally as Doe defendants, I will dismiss the claims for which no defendant has been identified.

Further, IT IS ORDERED that if plaintiff Louis Nieves does not respond to this order

by April 30, 2004, or show cause for his failure to do so, then I will dismiss this action with prejudice.

Entered this 19th day of April, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge