

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

LUIS 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

Plaintiff Luis Nieves is a former co-plaintiff in a group complaint filed in the District Court for the Eastern District of Wisconsin. The case was transferred to this district on March 1, 2004. In an order dated March 15, 2004, I severed the claims of the several plaintiffs and instructed each one of them 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 amended pleadings, I would

review them to insure they were limited to the claims on which each had been allowed to proceed. In addition, I advised the plaintiffs that if they were still unable to identify the defendants that they had described as Doe defendants in the original complaint, I would dismiss the claims for which no defendant had been identified.

On April 5, 2004, the court learned that plaintiff Nieves had been transferred from the institution listed as his place of confinement on the court's docket. At that time, it became apparent that Nieves had not received the March 15 order at his new address. Therefore, another copy of the order was sent to him and the deadline for submitting a proposed pleading and naming the Doe defendants was extended to April 30, 2004.

Now plaintiff Nieves has written a letter dated April 25, 2004, which I construe as a motion for a second extension of time in which to comply with the March 15 order. In support of his motion, plaintiff Nieves states that when he arrived at his current address in the Iowa State Penitentiary in December 2003, he was not given "all documents regarding this case." He was told that his papers had been lost during the transfer. Plaintiff contends that before he can respond to the March 15 order, he will need a court order directing that he be allowed to correspond with his former co-plaintiffs, be given carbon paper and writing paper and be allowed to have his typewriter. In addition, plaintiff states that he will need this court to send him "all documents regarding this case."

I do not intend to order prison officials to allow plaintiff to correspond with his

former co-plaintiffs about his case. One of the reasons for severing the claims of the several plaintiffs in the group complaint was that there were very few claims in the original action that were common to the group. Plaintiff's individual claims were described in detail in Judge Adelman's order entered on March 7, 2003. I am enclosing a copy of that order to plaintiff with this order. Moreover, plaintiff does not need to consult with his former co-plaintiffs to identify the persons allegedly responsible for violating his constitutional rights. As Nieves says in his April 25 letter, "By memory I'm with no doubt know every culprit in claims and I want for you to give me the chance to name every single one of them."

As for plaintiff's request for a court order directing that he be given his typewriter, carbon paper and writing paper, such an order would not be proper in a case in which the plaintiff has not shown that his right of reasonable access to the courts has been denied. Reasonable access does not require that a prisoner be given a typewriter or carbon paper. As for writing paper, plaintiff does not suggest that he will not be able to obtain an amount of paper sufficient to provide him reasonable access to this court. Therefore, his request for an order directing that he be given his typewriter, carbon paper and writing paper will be denied.

Finally, plaintiff asks that this court send him a copy of all papers filed in this case so far. That request will be denied, because plaintiff does not need the record of the original case to prosecute his individual claims in this action. As noted above, I am enclosing a copy

of Judge Adelman's March 7, 2003 order to plaintiff. From that document, plaintiff should be able to identify his claims and rewrite the factual allegations underlying those claims in a proposed amended pleading. Plaintiff should avoid making allegations such as, "*Defendants* did this or that." At this stage of the lawsuit, plaintiff must identify every defendant in the caption of his complaint and describe in the body of his complaint precisely who took the actions that form the basis for his constitutional claims. If he cannot describe who committed the acts giving rise to his claims, he will not be allowed to proceed any further on those claims.

ORDER

IT IS ORDERED that plaintiff's request for an enlargement of time in which to respond to this court's March 15, 2004 order is GRANTED. This is the last such extension plaintiff will receive.

Further, IT IS ORDERED that plaintiff may have until May 24, 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.

Finally, IT IS ORDERED that plaintiff's requests for a court order directing that he be given his typewriter, carbon paper and writing paper, permission to correspond with his former co-plaintiffs in the group complaint and a copy of all papers filed in the original action to date are DENIED. I am enclosing to plaintiff with this order a copy of Judge Adelman's order of February 26, 2004, which is all plaintiff needs in order to respond to this court's March 15 order.

Entered this 4th day of May, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge