

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

NATHAN J. PETTIGREW,
JAMES K. MEYER,
SCOTT L. GARLOCK,
CHARLES WRIGHT,
RICHARD POPE,
DEAN A. KILLERLAIN,
KENNETH W. COZART,
JAMES M. WALKER,

Petitioners,

v.

MATTHEW FRANKS, Secretary,
Wisconsin Department of Corrections; and
DAREN SWENSON, Warden,
CCA/Prairie Correctional Facility,

Respondents.

This is a civil action brought by eight prisoners confined at the Prairie Correctional Facility in Appleton, Minnesota. In their complaint, petitioners allege violations of their procedural due process rights in connection with their designation as persons in need of sex offender treatment programs.

In Lindell v. Litscher, 212 F. Supp. 2d 936 (W.D. Wis. 2002), I ruled that I would

not allow prisoners proceeding pro se to prosecute a group complaint in this court because of the many problems inherent in administering such cases. First, there is no guarantee that prisoners who bring joint lawsuits will remain in contact with each other for the length of time it takes a lawsuit to reach resolution. Prisoners are subject to administrative and disciplinary transfers from one institution to another and may be moved regularly within an institution from one cell block to another and to administrative and punitive segregation status. They have limited freedom, if any, to meet with co-plaintiffs to discuss strategy for a combined lawsuit or to draft documents jointly for filing in a case.

Second, all too often one inmate takes charge of the multi-plaintiff lawsuit and obtains the agreement of other inmates to act on their behalf in prosecuting the joint lawsuit although he lacks the legal authority to do so. This is a particularly tempting procedure in the prison setting, where prisoners often have difficulties communicating with one another. Thus, there is no way for the court to insure that each co-plaintiff would receive the information he would need before agreeing to the strategic decisions being made in the case.

Third, Fed. R. Civ. P. 11 requires any person who files a lawsuit to certify by his signature that to the best of the signer's knowledge, information and belief formed after reasonable inquiry, the allegations of the complaint are well grounded in fact and the lawsuit is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law and that the filing of the complaint is not interposed for any

improper purpose, such as to harass or cause unnecessary delay or needlessly increase the cost of litigation. Although all eight of the co-plaintiffs in this case have signed their names to the last page of the complaint, it is not clear whether each plaintiff saw and read the complaint he was signing.

Fourth, for the pro se litigant who lets another inmate prosecute a joint action on his behalf, there is significant potential for adverse consequences. Under the 1996 Prison Litigation Reform Act, prisoners who file claims that lack legal merit or who sue defendants who are immune from suit are subject to the three-strike provision in 28 U.S.C. § 1915. In some instances, courts impose other sanctions on persons who bring lawsuits that lack merit. A pro se litigant who lets another inmate file a joint complaint for him may find himself denied the opportunity to file suits without prior payment of the full filing fee or subjected to monetary sanctions.

Finally, to the extent that a pro se prisoner litigant wishes to recover money damages for alleged unconstitutional practices or conditions, it does not help him to file his suit along with other prisoners. Each prisoner litigant claiming damages is required to prove his own damages independently. Joint filings concerning individual claims of injury only raise the costs of litigating the case and needlessly complicate its management.

Accordingly, I will dismiss petitioners' complaint without prejudice to each petitioner's filing his own separate lawsuit. If petitioners each file separate lawsuits, they

should be aware that they will be required to make an initial partial payment of the \$150 fee for filing their complaint before the court can screen the merits of their complaint under 28 U.S.C. § 1915(e)(2). In order to determine the amount of the initial partial payment, each petitioner filing a lawsuit must submit a certified copy of their trust fund account statement for the six-month period immediately preceding the date of the filing of their complaint. 28 U.S.C. § 1915(a)(2).

ORDER

IT IS ORDERED that this case is DISMISSED without prejudice to each petitioner's refiling the claims in his own lawsuit separate from this one.

Entered this 1st day of June, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge