

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

DANIEL R. WILLIAMS
and DENNIS R. THIEL,

ORDER

Petitioners,

04-C-502-C

v.

HELENE NELSON, Secretary of Wisconsin
Department of Health and Family Services;
STEVE WATTERS, Director, Sand Ridge
Secure Treatment Center; GREGORY
VAN RYBROEK, Director, Mendota Mental
Health Institution; STEVE SCHNEIDER,
Security Director, SRSTC; STEVE HAMILTON,
Unit Manager and DAVID THORTON,
Treatment Director, SRSTC; and LLOYD
SINCLAIR, Associate Treatment Director, SRSTC,

Respondents.

This is a civil action brought by two patients confined at the Sand Ridge Secure Treatment Center in Mauston, Wisconsin, alleging violations of their federal constitutional rights and rights under state law in connection with their confinement and treatment as Chapter 980 patients. Petitioners submitted a U.S. Postal money order in the amount of \$10 toward their filing fee, but requested leave to proceed in forma pauperis as to the

remainder of the fee. For the reasons set out below, I am dismissing this action without prejudice to petitioners' filing separate complaints. Therefore, I am directing the clerk of court to return petitioners' money to them.

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. The problems are equally applicable to joint lawsuits brought by two or more patients involuntarily committed under Wis. Stat. Chapter 980.

First, there is no guarantee that patients who bring joint lawsuits will remain in contact with each other for the length of time it takes a lawsuit to reach resolution. Patients are subject to administrative transfers from one institution to another and may be moved regularly within an institution from area to another and to administrative segregation status. Their freedom to meet with one another to discuss strategy for a combined lawsuit or to draft documents jointly for filing in a case is not guaranteed.

Second, all too often one person takes charge of the group lawsuit and obtains the agreement of other persons to act on their behalf in prosecuting the joint lawsuit although he lacks the legal authority to do so. There is no practical 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 both of the co-petitioners in this case have signed their names to the last page of the complaint, it is impossible to tell whether each petitioner actually saw and read the complaint he was signing.

Fourth, a pro se litigant who lets another pro se litigant prosecute a joint action on his behalf faces significant potential adverse consequences. In some instances, he may be exposed to sanctions because the lawsuit lacks legal merit. Even if the lawsuit raises claims of arguable legal merit, a pro se litigant who has not made his own legal and tactical decisions may find him bound by a judgment against him simply because his co-plaintiff made strategic errors.

Finally, to the extent that a pro se litigant wishes to recover money damages for alleged unconstitutional practices or conditions, it does not help him to file his suit along with another pro se litigant. Each plaintiff 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. In preparing their separate complaints, each petitioner should pay particular attention to describing clearly what each individual respondent did to violate *his* constitutional rights. I will dismiss general allegations of illegal conditions that lack any indication that they apply to the particular petitioner on the ground that the petitioner lacks standing to assert the claim.

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. A copy of the complaint is enclosed to each petitioner for his reference in drafting a new complaint that sets out only those claims that relate directly to him. Because it is not clear whether one or both

petitioners paid for the \$10 money order submitted in this case, the clerk of court is directed to return \$5 to each petitioner.

Entered this 23rd day of July, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge