

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

DONALD LEE PIPPIN, JR.,

Plaintiff,

ORDER

04-C-582-C

v.

JUDY P. SMITH - Warden of Oshkosh

Correctional Institution;

JIM SCHWOCHERT, Security Director at OSCI;

TOM EDWARDS, HSU Director at OSCI;

DR. ALEXANDER STOLARSKI, Chief Psychologist at OSCI;

CAPT. DERRINGER, 1st Shift Security at OSCI;

JOHN DOE, 1st Shift Security at OSCI (accomp. Dr. A.S. on 4/20/04);

LT. ROBERT BLECHL, 2nd Shift Security at OSCI (now Capt. and 1st Shift),

Defendants.

Plaintiff Donald Lee Pippin Jr. is proceeding in this case on claims that

1) an unnamed official refused to send a letter he wrote in violation of his rights under the First Amendment (plaintiff is proceeding against defendant Judy Smith for the sole purpose of discovering the name of the individual who is allegedly responsible for the refusal);

2) medical staff at the Oshkosh Correctional Institution violated his rights under the Eighth Amendment by not obtaining corrective shoes for him (plaintiff is proceeding against defendant Tom Edwards for the sole purpose of discovering the name or names of the

medical staff who are allegedly responsible for this alleged violation of the Eighth Amendment);

3) defendant Blechl refused to mail plaintiff's letters to family and friends in violation of his rights under the First Amendment;

4) defendants Stolarski, Judy Smith, Schwochert and Doe conspired to deprive plaintiff of his constitutional right of access to the courts; and

5) defendants Schwochert and Derringer conspired to deprive plaintiff of his constitutional right of access to the courts by creating false transportation costs that he could not afford to pay.

Presently before the court are plaintiff's motion for summary judgment and motion for removal of the state attorney general as counsel for defendants. Both motions will be denied.

Plaintiff's motion for summary judgment will be denied because it fails to conform in every respect to this court's procedures to be followed on motions for summary judgment. In particular, plaintiff has proposed no facts supporting his motion and has offered no evidence to prove his claims.

Plaintiff's motion for removal of an assistant state attorney general as counsel for defendants also will be denied. Plaintiff has made only unsworn and vague assertions that a conflict of interest exists in the attorney general's representation of defendants. In particular, he states that a conflict of interest exists because he and his family wrote letters

to the attorney general in late 2003 and early 2004 asking her to initiate a criminal investigation into defendants' actions, because the attorney general's office "was involved directly in the appeal process of the adoption issues" and because the attorney general is defending the state with respect to petitioner's appeal from his conviction. Nothing in these assertions suggests that defendants' counsel is in a position in which he might be required to make a choice between his own interests and those of the defendants.

ORDER

IT IS ORDERED that plaintiff's motion for summary judgment is DENIED without prejudice for his failure to comply with this court's summary judgment procedures.

Further, IT IS ORDERED that plaintiff's motion for removal of the attorney general as counsel for defendants is DENIED.

Entered this 1st day of September, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge