

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

DONALD LEE PIPPIN, JR.
and SHANNON CHARLES STEINDORF,

Petitioners,

v.

MATTHEW FRANK, Sec. of WI DOC;
STEVE CASPERSON, DAI Admin.;
JUDY P. SMITH - Warden of Oshkosh
Correctional Institution;
JIM SCHWOCHERT, Security Director
at OSCI; and JAMES A. ZANON,
Program Supervisor at OSCI; TIM PIERCE,
ICE at OSCI; JENNIFER DELVAUX,
ICE at OSCI; LAWERNCE STAHOWIAK,
Registrar at OSCI; RUTH TRITT, Mail
Room Supervisor at OSCI; ALI FONTANA,
Center Director at OSCI; BROOKS FELDMANN,
Center Director at OSCI; ELIZABETH YOST,
Librarian/Notary at OSCI; TOM EDWARDS,
HSU Director at OSCI; DR. ROMAN KAPLAN,
Medical Doctor at OSCI; DR. ALEXANDER STOLARSKI,
Chief Psychologist at OSCI; JULIE (?), Main Kitchen
Supervisor at OSCI; CAPT. MATT JONES, Security/
Segregation at OSCI; CAPT. DERRINGER, 1st Shift
Security at OSCI; CAPT. SCHROEDER, 2nd Shift
Security at OSCI; LT. BUECHEL (?-sp), 1st Shift
Security at OSCI (accomp. Dr. A.S. on 4/20/04);
LT. KEN KELLER, Security/Segregation at OSCI;
LT. LINGER, 1st Shift Security at OSCI; LT. ROBERT

ORDER

04-C-582-C

BLECHL, 2nd Shift Security at OSCI (now Capt. and 1st Shift); LT. SCHNEIDER, 2nd Shift Security at OSCI; LT. BLOTCHER (?sp), 2nd Shift Security at OSCI (Female Lt. involved on 11/15/03); SGT. KOONEN, 1st Shift Sgt. P-Bldg. at OSCI; SGT. MONROE, 1st Shift Sgt. Seg. at OSCI; SGT. RASMUSON, 2nd Shift Sgt. P-Bldg. at OSCI; SGT. GILBERTSON, 3rd Shift Sgt. P-Bldg. at OSCI; CO PLATZ, 3rd Shift P-Bldg. at OSCI; CO S. DOMAN, 2nd Shift Utility at OSCI; CO RADKE, 3rd Shift Seg. at OSCI; CO SMITH, 3rd Shift Seg. at OSCI; CO WERNER, 1st Shift Seg./Hearing Transport Officer at OSCI; CO JENSEN, 1st Shift P-Bldg. (now U-Bldg) at OSCI; and CO CAROL COOK, Seg. Property Officer/Mail at OSCI;

Respondents.

In an order dated March 1, 2005, I gave petitioner Donald Lee Pippin, Jr. until March 18, 2005, in which to show cause why he should not be dismissed from this suit on the ground that his claims are moot. In addition, I ordered petitioner Shannon Charles Steindorf to advise the court no later than March 18, 2005, whether he wished to prosecute this action. I told petitioner Steindorf that if, by March 18, 2005, he failed to advise the court that he wished to prosecute the case, I would dismiss him from the lawsuit and would not charge him a filing fee. In addition, I told Steindorf that if he wished to proceed with the action, he would have to submit a trust fund account statement for the six-month period beginning approximately September 1, 2004 and ending approximately March 1, 2005, so

that I could determine his indigent status under 28 U.S.C. § 1915, and that if he failed to submit the trust fund account statement by March 18, 2005, I would deny his request for leave to proceed in forma pauperis for his failure to show that he qualifies for indigent status.

Petitioner Steindorf has not responded to this court's March 1, 2005 order and he has not submitted the required trust fund account statement. Instead, petitioner Pippin has filed a document titled "Response to the Court," in which he claims that he is responding on petitioner Steindorf's behalf. According to Pippin, petitioner Steindorf has no money and no ability to file "any paperwork on his own due to the extreme costs and the money being taken from his account over these proceedings to date." This submission does not satisfy petitioner Steindorf's obligation to respond to the March 1 or to comply with the requirement of the 1996 Prison Litigation Reform Act to submit a copy of his trust fund account statement for the six-month period immediately preceding the filing of his complaint. Petitioner Steindorf's failure to communicate with the court and submit the required trust fund account statement leaves me no choice but to dismiss him from this action for his failure to prosecute.

With respect to petitioner Pippin, I am satisfied that he has shown cause why this case should not be dismissed as moot as to him, despite his release from prison. Petitioner points out that contrary to this court's belief, he has made a demand for money damages. A more thorough review of the complaint bears this out. Although the complaint contains

what appears to be petitioner's only request for relief at page 5, it contains a second demand for relief some 19 unnumbered pages later. This second demand includes a request for money damages in the form of "lost wages," "payment for false confinement by staff" and "compensation for pain, suffering, emotional and psychological stress and abuses." Although the 1996 Prison Litigation Reform Act precludes petitioner's claim for damages based on "mental or emotional injury suffered while in custody without a prior showing of physical injury," 42 U.S.C. § 1997e(e), it is possible that petitioner Pippin will be able to prove at some later stage of these proceedings that he lost wages or was "falsely confined" in segregation status as a result of their alleged unconstitutional acts. However, one last threshold matter must be addressed before I will screen petitioner Pippin's complaint.

Because Pippin has been released from prison, it is not feasible to require him to submit a trust fund account statement to prove his indigency. Nevertheless, he cannot proceed in this action unless he obtains permission to proceed in forma pauperis or pays the full filing fee, which was \$150 at the time he filed this complaint. (The fee has since been raised to \$250.) Petitioner Pippin has not submitted the filing fee or an affidavit of indigency to prove his entitlement to pauper status.

ORDER

IT IS ORDERED that petitioner Shannon Charles Steindorf is DISMISSED from

this action for his failure to prosecute.

Further, IT IS ORDERED that petitioner Donald Lee Pippin may have until April 13, 2005, in which either to pay the \$150 fee for filing this action or submit an affidavit of indigency showing his entitlement to indigent status. A blank form for an affidavit of indigency is included to petitioner Pippin with this order. If, by April 13, 2005, petitioner Pippin neither pays the filing fee nor submits a completed affidavit of indigency, I will deny him leave to proceed in forma pauperis and close this case.

Entered this 30th day of March, 2005.

BY THE COURT:

BARBARA B. CRABB
District Judge