

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;
LT. BUECHEL (?-sp),
st 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. has been granted leave to proceed in forma pauperis
on his 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 Buechel 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.

The Attorney General's office has accepted service of plaintiff's complaint on behalf of all of the defendants except defendant "Lt. Buechel," who defendants have been unable to identify. In Sellers v. United States, 902 F.2d 598, 602 (7th Cir. 1990), the Court of Appeals for the Seventh Circuit ruled that a prisoner is required to furnish the information necessary to identify prison employee defendants. Here, plaintiff has identified defendant Buechel in the caption of his complaint as the First Shift Security Officer who "accompanied [defendant Alexander Stolarski] on April 20, 2004." If this officer's name is not Buechel, then plaintiff may be able to identify the individual through normal discovery at a later stage of this lawsuit. Therefore, for the time being, the court will treat defendant Buechel as a

John Doe defendant, and substitute the name John Doe for Buechel's name in the caption of future orders. The parties should be aware that early on in this lawsuit, Magistrate Judge Stephen Crocker will hold a preliminary pretrial conference. At the time of the conference, the magistrate judge will discuss with the parties the most efficient way to obtain identification of the unnamed or misnamed defendants and will set a deadline within which plaintiff is to amend his complaint to include them.

ORDER

IT IS ORDERED that in future submission and orders, the caption of this case is AMENDED to delete the name "Lt. Buechel (?sp)" and insert in its place the name "John Doe."

Entered this 17th day of June, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge