

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

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NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

ORDER

05-C-003-C

PETER HUIBREGTSE; GARY BOUGHTON;  
STEVEN HOUSER; CAPTAINS STEVE  
SCHUELER, THOMAS CORE, KURT LINJER,  
GILBERG and GARY BLACKBOURN; C.O.  
LANGE and SGT. CARPENTER,

Defendants.

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Plaintiff has filed a request that the record on appeal in this case include every item docketed by the court, as well as exhibits attached to his complaint and amended complaint (Dkt. ## 2 and 4). Plaintiff's request will be denied as untimely with respect to docketed items excluded automatically under Circuit Rule 10. A copy of the circuit rule is enclosed to the parties with a copy of this order. With respect to plaintiff's request that the record include the exhibits he attached to his complaint and amended complaint, I observe that the record does not show that any exhibit was submitted with plaintiff's amended complaint.

However, plaintiff's original complaint was accompanied by exhibits. These exhibits are largely plaintiff's proof of exhaustion of his administrative remedies on the claims he raised in the complaint. In this court's screening order, I noted that because plaintiff's exhibits were not necessary to a determination whether his various claims had legal merit, I would separate the exhibits from the complaint and keep them in the court's file rather than require that they be served on the defendants. I advised defendants that if they wished to view the documents, they would be available in the court's file. Subsequently, plaintiff moved for reconsideration of the March 8 order contending among other things that I had overlooked a claim that he had raised under the First Amendment. In an order dated May 2, 2006, I agreed with plaintiff that I had overlooked his First Amendment claim. I then considered the merits of the claim and dismissed it. In deciding the merits, I relied on certain of plaintiff's exhibits that had been attached to the complaint. Those exhibits should have been made a part of the record at that time. And, although plaintiff's remaining exhibits may not have been considered by this court in connection with the May 2 order, they were tendered to the court as part of the complaint. Therefore, I will include them in the record on appeal.

Because the exhibits to plaintiff's original complaint were never served on the defendants, I am enclosing a copy to them with a copy of this order.

ORDER

IT IS ORDERED that plaintiff's motion for correction or modification of the record on appeal is GRANTED in part and DENIED in part. The record will not be modified to include all of the items docketed by the court. Documents excluded from the record pursuant to Circuit Rule 10 remain excluded. However, the clerk of court is requested to docket the exhibits attached to this order as exhibits to plaintiff's original complaint and insure that they are made a part of the record on appeal.

Entered this 30th day of January, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge