

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

CINDY O'DONNELL, RICK RAEMISCH,
SANDRA HAUTAMAKI, JOHN RAY,
STEVEN CASPERSON, JEFF HAEN,
STEVEN SPANBAUER, KATHLEEN BELLAIRE,
CAPT. KURT LINJER, C.O. DEAVER, ELLEN RAY,
CAPT. GILBERG, PETER HUIBREGTSE, GERALD
BERGE, RICHARD SCHNEITER,
SGT. S. GRONDIN, BRIAN KOOL, C.O. D. ESSER,
C.O. A. JONES, GARY BOUGHTON, JOHN SHARPE,
KELLY TRUMM, C.O. JOHNSON, TIMOTHY HAINES,
LT. J. GRONDIN, C.O. BELL, SGT. BARTELS,
LT. BRUDAS, SGT. MURRAY, CPT. JULIE BIGGAR,
C.O. SCHNEIDER, and C.O. KORTMANN,

Defendants.

ORDER

05-C-04-C

Plaintiff has moved pursuant to Fed. R. Civ. P. 41(a)(2) for voluntary dismissal of his claims against defendant Sgt. Murray. According to plaintiff, he does not believe Murray is a prison official who violated his constitutional rights.

When a motion for voluntary dismissal is filed after the defendant has filed an answer

or motion for summary judgment such as in this case, Rule 41(a)(2) provides that the action may be dismissed by the plaintiff "only upon order of the court and upon such terms and conditions as the court deems proper." Because defendant has been required to defend this action, plaintiff's motion for voluntary dismissal is proper only on the condition that the dismissal is with prejudice. Plaintiff states expressly that he does not object to such a dismissal.

ORDER

IT IS ORDERED that plaintiff's motion pursuant to Fed. R. Civ. P. 41(a)(2) for voluntary dismissal of his claims against defendant Sgt. Murray with prejudice is GRANTED. Sgt. Murray is DISMISSED from this action.

Entered this 18th day of May, 2005.

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