

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

STEVEN D. STEWART,

Plaintiff,

v.

C.O. BARR, JOANNE GOVIER,
C.O. MCDANIELS, C.O. STOWELL,
BURTON COX, JR., CINDY SAWINSKI
and C.O. GOVIER (Male),

Defendants.

ORDER

05-C-293-C

This case has gotten off to a rocky start, in part because plaintiff's complaint was so difficult to read. Plaintiff's original complaint is handwritten on notebook paper. However, the print is so small that plaintiff has squeezed two lines of text into each space designed for one line of text. To make matters more confusing, he did not provide the full names of many of the defendants he sued. Instead, he simply referred to them by their rank as correctional officers and a last name. For example, plaintiff referred to two defendants by the name of "Govier," a C.O. Joanne Govier and a C.O. Govier (Male). He also referred to two defendants with the name "McDaniels," a Sgt. McDaniels and a C.O. McDaniels. The

confusing identification has led to problems.

In an order entered June 22, 2005, I granted plaintiff leave to proceed in forma pauperis on three claims: 1) defendants McDaniels, Govier and Stowell violated plaintiff's rights to freedom of expression and to freely practice his religion when they refused to allow him to go to a doctor's appointment unless he removed his braids or "dreadlocks," which are a necessary part of plaintiff's religious practice as a Rastafarian; 2) defendants Cox and Sawinski violated plaintiff's Eighth Amendment rights when they denied him surgical treatment for his rectal mucosa prolapse condition; and 3) defendant Barr violated plaintiff's rights under the Eighth Amendment when he took plaintiff's prescribed medication away from him for three days. Unfortunately, when I screened the allegations of plaintiff's complaint, I did not recognize that plaintiff was alleging facts against two different individuals named McDaniels and two different defendant Goviers. Indeed, in drafting the order, I inadvertently dropped "C.O. Govier (Male)" from the caption altogether.

Recently, after plaintiff's complaint was forwarded to the attorney general's office for informal service of process on defendants McDaniels, Barr, Govier, Stowell, Cox and Sawinski, I discovered that there were two persons named McDaniels when the attorney general wrote to indicate that it had accepted service on behalf of defendant C.O. McDaniels (correctly named Jeremy McDaniel), but that there was no Sgt. McDaniels employed at the Wisconsin Secure Program Facility. In an order dated July 6, 2005, I noted that it was

plaintiff's responsibility to identify the persons he wished to sue clearly enough so that they could be served with his complaint. I then assumed that plaintiff had made a mistake when he duplicated McDaniels's name in the caption of his complaint and I dismissed the complaint as to defendant Sgt. McDaniels.

Now plaintiff has written to clarify two points. First, he says that there are a few McDaniels at the prison and he cannot say whether the correct one has been served with his complaint. Second, he points out that it is the male Govier, and not the female Govier (Joanne), who refused to allow him to go to his doctor's appointment unless he first removed his braids.

If C.O. Jeremy McDaniel is not the person who cooperated with defendants Govier and Stowell to prevent plaintiff from going to a doctor's appointment unless he removed his braids, then this defendant McDaniel is free to move to dismiss the complaint against him. As noted in my July 6 order, it is plaintiff's responsibility to identify the defendants with sufficient clarity to allow them to be served.

With respect to defendant Joanne Govier (correctly named Joanne Goviere), plaintiff has now made it clear that she was not involved in the incident upon which plaintiff's free exercise and free speech claims are based. Therefore, on the court's own motion, the complaint will be dismissed as to her.

Defendant Govier (Male) has not yet been served with plaintiff's complaint.

Therefore, I am forwarding a copy of plaintiff's complaint to the attorney general for informal service of process on this defendant. If the attorney general's office is unable to identify the male Govier from plaintiff's description of the incident at issue, then defendant Govier (male) will be treated as a Doe defendant whose identity may be discovered through discovery.

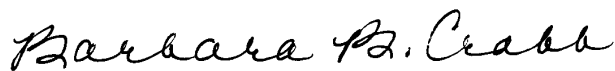
ORDER

IT IS ORDERED that

1. Plaintiff's complaint is DISMISSED as to defendant Joanne Govier;
2. The order of June 22, 2005 is AMENDED on page 26 to delete the name Joanne Goviere from the second to last line and substitute in its place the name C.O. Govier (Male).
3. Pursuant to the informal service agreement between the attorney general and this court, a copy of plaintiff's complaint and the June 22, 2005 order is being sent today to the attorney general for service on defendant Govier (Male).

Entered this 13th day of July, 2005.

BY THE COURT:



BARBARA B. CRABB
District Judge

