

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

ANTHONY R. YELICH,

Petitioner,

v.

ORDER

05-C-511-C

MATTHEW J. FRANK, Secretary,
Wisconsin Correctional System;
AND HIS AGENTS, EMPLOYEES, OR THOSE
ACTING BY HIS DIRECTION OR ON HIS BEHALF,

Respondent.

On August 8, 2005, petitioner Anthony R. Yelich submitted a document to this court dated July 27, 2005 titled "Memorandum of Law in Support of Motion for a TRO and Preliminary Injunction," a letter dated August 17, 2005, purportedly setting out facts supporting his memorandum of law, and a request for leave to proceed in forma pauperis. In an order dated August 29, 2005, I told petitioner that I could not consider his motion for a temporary restraining order in the absence of a formal complaint setting out the facts underlying his claim that he is entitled to relief in this court. I told petitioner I could not construe his submissions together as a proposed complaint because the documents did not meet the basic requirements of Fed. R. Civ. P. 8; that is, petitioner had not provided simple

and clear statements describing what happened to him to make him believe that his federal or constitutional rights were violated, who committed the challenged acts and what he wants the court to do about it. Finally, I told petitioner that because it was not clear who he was suing and what incident or incidents he was suing about, I would dismiss this action unless, no later than September 19, 2005, he submitted a proposed complaint that 1) includes a caption that names all of the persons he intends to sue; 2) sets out his claims against each of the respondents in short and plain statements made in numbered paragraphs; and 3) identifies the relief he wants from the court. To assist petitioner in revising his complaint, I stated that I was sending him this court's forms for filing a civil complaint.

Now petitioner has filed a letter dated September 14, 2005, in which he requests an additional 90 days in which to file his complaint. He states that he being held in segregation where he does not have access to a law library or assistance from others to help him draft his complaint. He says he does not have specialized training in the law and has been relying on the assistance of other prisoners. Moreover, he notes that he has not yet received the complaint forms the court promised him.

I regret that the forms I had intended to send petitioner earlier were not included with the August 29 order. They are enclosed to petitioner with this order. However, I am going to deny petitioner a 90-day extension of time in which to file a complaint, because he is free to file his complaint in a new lawsuit at a later time without suffering any prejudice if this action is closed. As an initial matter, I note that in another 90 days, the trust fund

account statement petitioner submitted with the papers making up this case will be out-of-date. 28 U.S.C. § 1915(a)(2) provides that a trust fund account statement must cover the 6-month period *immediately preceding the filing of the complaint*. Therefore, petitioner will have to take steps to obtain a new trust fund account statement to be filed with his complaint whether this case remains open or is closed. Second, petitioner has not been charged a filing fee in connection with this action. Therefore, he will suffer no financial harm if the case is closed. He will be free to file his complaint whenever he is ready to do so without concerning himself about a new deadline. To assist plaintiff in drafting his complaint, I am returning to petitioner with a copy of this order a copy of all the documents he submitted in this case.

ORDER

IT IS ORDERED that plaintiff's request for an enlargement of 90 days' time within which to file a complaint in this case is DENIED. The clerk of court is directed to close this file.

Entered this 21st day of September, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge