

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

CANYON A. THIXTON,

Plaintiff,

ORDER

v.

05-C-620-C

GERALD BERGE (in his individual capacity);
JON LITSCHER (in his individual capacity);
BRAD HOMPE (in his individual capacity); and
BRIAN KOOL (in his individual capacity),

Defendants.

Plaintiff Canyon A. Thixton, a prisoner at the Racine Correctional Institution in Racine, Wisconsin, by his attorney, Paul A. Kinne, filed a proposed complaint on October 21, 2005 and paid the \$255 filing fee. Unfortunately, the office of the clerk of court did not recognize at that time that the action was a prisoner lawsuit, which is governed by the 1996 Prison Litigation Reform Act. Under the act, a prisoner's complaint must be screened pursuant to 28 U.S.C. § 1915A before it can be served.

Now plaintiff has filed a proposed "First Amended Complaint," together with proof of service of the amended complaint on the defendants. The office of the clerk correctly

identified the proposed amended complaint as a prisoner complaint and sent it to chambers for screening. This prompted the discovery that the case had not been routed to chambers in October.

At this point, it is necessary to take a step backward. Until the complaint is screened, plaintiff cannot proceed further. He will have to contact defendants and advise them that they are under no obligation to answer the amended complaint until the court enters its screening order.

ORDER

Accordingly, IT IS ORDERED that plaintiff is to advise defendants immediately that they are not to file a response to plaintiff's amended complaint until the court has screened it pursuant to § 1915A.

Further, IT IS ORDERED that plaintiff's amended complaint is taken under advisement. As soon as the court's calendar permits, the amended complaint will be screened

pursuant to 28 U.S.C. § 1915A.

Entered this 29th day of November, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge