

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

RAYMOND BRESETTE, #217468,

Plaintiff,

v.

OFFICER STEVE KNUDSEN,
SHERIFF ROBERT FOLLIS and
JAIL ADMINISTRATOR JOHN DOE,

Defendants.

ORDER

06-C-280-C

In an order entered in this case on June 16, 2006, I screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A and allowed him to proceed on his claim that defendant Knudsen, Follis and Jail Administrator John Doe violated his Fourth Amendment rights by unlawfully arresting him on October 10, 2005 and detaining him until October 19, 2005. Defendants Knudsen and Follis have answered the complaint and a preliminary pretrial conference has been held. Now plaintiff has filed two documents. The first is titled "Proposed Amendment to Civil Right Complaint Title 42 U.S.C. § 1983," (Dkt. #7) and the second is titled "Civil Rights Complaint 42 U.S.C. § 1983" (Dkt. #8). The two complaints are identical in their content. Each makes the same cosmetic changes to the

factual allegations. In addition, each replaces the name of the Doe defendant in the caption and the body of the complaint with the name of Larry Weber. There are only two differences in the two proposed complaints. Dkt. #7 shows in bold typeface what has been added to the original complaint and in line strikes what has been deleted. Dkt. #8 does not. Dkt. #7 is properly titled as an amended complaint. Dkt. #8 is not. Because the two proposed complaints are not substantively different and Dkt. #7 contains the proper caption, Dkt. #7 will be accepted as the operative pleading in the case. There is no need to re-screen its content pursuant to § 1915A, because I have determined already that plaintiff may proceed on the claims raised in the amended complaint.

Accordingly, IT IS ORDERED that plaintiff's "Proposed Amendment to Civil Right Complaint . . ." (Dkt. #7) is accepted as the operative pleading in this case.

Further, IT IS ORDERED that plaintiff arrange promptly to serve the amended complaint on defendant Larry Weber. I am enclosing to plaintiff with a copy of this order a copy of a memorandum describing the procedure to be followed in serving a complaint on individuals in a federal lawsuit, together with a copy of plaintiff's amended complaint and blank waiver of service of summons forms.

Finally, IT IS ORDERED that defendants Knudsen and Follis may have until September 29, 2006, in which to file a responsive pleading to plaintiff's amended complaint. Alternatively, these defendants may advise the court and plaintiff that they intend to stand

on their answer to the original complaint as their response to the amended complaint.

Entered this 19th day of September, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge