

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

RAYMOND K. HEDGESPETH, JR.,
BEN F. OLDAKOWSKI, DELBERT CLEVELAND,
BRYAN CAMPBELL and BRANDEN SUSTMAN, et al.,

Plaintiffs,

v.

ORDER

13-cv-167-bbc

THE STATE OF WISCONSIN,
DEPARTMENT OF HEALTH SERVICES and
ALL EMPLOYEES CONNECTED TO THE
COMMITMENT OF CHAPTER 980 AND ALL
THE PATIENTS SO CONFINED,

Defendants.

In an order entered on May 7, 2013, Magistrate Judge Peter Oppeneer directed plaintiffs Ben Oldakowski, Delbert Cleveland, Bryan Campbell and Branden Sustman to advise the court in writing no later than May 28, 2013, whether they wished to prosecute this action jointly with Raymond Hedgespeth. They were advised any plaintiff that failed to respond by the deadline would be considered to have withdrawn from the lawsuit. It is now June 7, 2013 and only plaintiff Hedgespeth has responded, asking the court to remove plaintiffs Oldakowski, Cleveland, Campbell and Sustman from this case. Because none of the other plaintiffs have responded to the May 7 order, they are considered to have opted out of the lawsuit and will not owe any portion of the \$350 filing fee.

In addition, plaintiff Hedgespeth, who appears to be continuing to seek class certification of this action, asks the court for a 30-day enlargement of time to either retain

counsel to represent him or to demonstrate to the court that he has made sufficient attempts to retain an attorney for the class but had been unsuccessful in doing so. This request will be denied as unnecessary. Because plaintiff is proceeding in forma pauperis, I must screen his complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and dismiss it if it is legally frivolous, malicious, fails to state a claim upon which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages. Given this court's current docket, it is likely to be at least a couple of weeks before screening is complete. Plaintiff should have sufficient time to complete his task before a screening determination has been made.

ORDER

IT IS ORDERED that

1. Plaintiffs Ben Oldakowski, Delbert Cleveland, Bryan Campbell and Branden Sustman are DISMISSED from this action. None of these plaintiffs owe any portion of the \$350 filing fee.

2. The complaint is taken under advisement for screening pursuant to 28 U.S.C. § 1915(e)(2)(B). Plaintiff will be notified promptly when a screening decision has been made.

Entered this 11th day of June, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge