

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

LOUIS E. AIELLO, BRIAN HUISMAN,
DEMIAN McDERMOTT, COREY KELLER,
DEAN SABIN, CODY VANDENBERG, and
CASEY FISHER, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

JON E. LITSCHER, Secretary,
Department of Corrections,
RICHARD VERHAGAN, Administrator,
Wisconsin Department of Corrections,
Division of Adult Institutions,

Defendants.

ORDER

98-C-0791-C

In an order entered February 9, 2001, I approved a settlement agreement in this class action suit challenging a prison regulation barring inmates from receiving certain materials deemed pornographic. In an order entered July 9, 2002, I denied a motion filed by several named plaintiffs, in which they sought (1) a hearing regarding alleged violations of the settlement agreement; and (2) the removal of counsel appointed to represent the plaintiff class in this case. Plaintiff Aiello has now filed a document entitled "Reply to Motion," which I construe as a motion pursuant to Fed. R. Civ. P. 60(b) to reconsider the court's July 9, 2002 order. Plaintiff Aiello's main objection appears to be that the lawyer appointed to represent the plaintiff class in this case did not meet a self-imposed August 15, 2002 deadline for

replying to the motion that I denied in the court's July 9, 2002 order. However, in an order entered on July 19, 2002, I informed plaintiffs' counsel that because the motion had been denied, there was no need for counsel to respond to the motion and his request to have until August 15, 2002, in which to do so was denied as moot. Accordingly, class counsel did not miss his own deadline because there was no deadline to miss. Plaintiff Aiello's Rule 60(b) motion will be denied.

However, I infer from plaintiff Aiello's Rule 60(b) motion that he has never seen the court's July 19, 2002 order. Accordingly, a copy of it and a copy of the court's July 9, 2002 order are being sent to plaintiff Aiello with a copy of this order.

ORDER

IT IS ORDERED that plaintiff Aiello's motion pursuant to Fed. R. Civ. P. 60(b) to reconsider the court's July 9, 2002 order is DENIED.

Entered this 5th day of September, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge