

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

Jael Speights,

Plaintiff,

v.

OPINION AND ORDER

01-C-0012-C

JON E. LITSCHER and
KATHLEEN NAGLE,

Defendants.

This is a civil action for monetary relief brought pursuant to 42 U.S.C. § 1983. Originally, plaintiff Jael Speights filed his lawsuit with two co-plaintiffs (Shar-Ron Buie and Paul Bamke) in the Northern District of Mississippi. That court required the plaintiffs to file separate actions. On December 8, 2000, plaintiff filed his own proposed complaint in the Northern District of Mississippi alleging various constitutional violations. On January 2, 2001, that court granted plaintiff's request for leave to proceed in forma pauperis on the basis of his financial status (without screening the complaint under 28 U.S.C. § 1915) and transferred the action to this court pursuant to 28 U.S.C. § 1404(a).

On February 12, 2001, this court screened plaintiff's complaint and granted him leave

to proceed in forma pauperis on his claims that (1) defendants Jon E. Litscher and Kathleen Nagle were deliberately indifferent to a serious medical need in violation of the Eighth Amendment when they transferred plaintiff from Wisconsin to the Tallahatchie County Correctional Facility in Tutwiler, Mississippi; (2) defendant Paul Heistand violated plaintiff's right to petition for redress of grievances in violation of the First Amendment; and (3) defendant Wendall Banks used excessive force against plaintiff in violation of the Eighth Amendment. Both of the latter two claims were alleged to arise out of incidents that occurred while plaintiff was housed at Tallahatchie. On June 20, 2001, this court granted defendants Heistand's and Banks's motion to dismiss the complaint as to them for lack of personal jurisdiction.

Presently before the court is defendants Litscher's and Nagle's motion for summary judgment. Plaintiff concedes that when he filed his separate action in the Northern District of Mississippi, he failed to delete his co-plaintiff's claim of deliberate indifference against defendants Litscher and Nagle for transfer to Tallahatchie. See dk. #23. Plaintiff now acknowledges that the deliberate indifference claim against defendants Litscher and Nagle does not pertain to him. Id. Although plaintiff filed a brief in opposition to defendants' motion for summary judgment, the brief relates solely to his allegations against former defendants Heistand and Banks. If plaintiff wishes to proceed against those defendants, he will have to file a complaint against them in the district in which the alleged acts took place

and in which the defendants are subject to jurisdiction of the court.

In light of plaintiff's concession that he does not have a claim against defendants Litscher and Nagle, I will grant defendants' motion for summary judgment.

ORDER

IT IS ORDERED that defendants Litscher's and Nagle's motion for summary judgment is GRANTED. The clerk of court is directed to close the file.

Entered this 10th day of May, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge