

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

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A'KINBO J. S. HASHIM, a/k/a JOHN D. TIGGS
VENCENT D. WHITAKER, JONATHAN P. COLE,
ANDREW B. COLLETTE, BRYSE L. GARRETT,
ALPHONCY DANGERFIELD, ANOTHY BODDIE,
NORMAN C. GREEN, JR., KENTA M. FINKLEY,
TERRY COMMODORE, EUGENE L. CHERRY,
SAMMY J. GATES, GLENN OWENS,
BARRELL FREEMAN, ERIC M. WASHINGTON,
TINGIA WHEELER, MICHAEL THOMAS,
MICHAEL A. SCIORTINO, MICHAEL OBUCHOWSKI,
MICHAEL ADAMS, DANIEL L. SMITH,
RONALD C. JACKSON, MICHAEL S. JOHNSON,
RUFUS LAJUAN LYNCH, TONY EPPENGER,
AMOS T. CRAIG, AL AMIN AKLAR-BEY,
AMOS BRANIGAN, BARON L. WALKER, SR.,
WALTER BROWN, SR., JOEDDIE SMITH,
JAMES P. BURBA, DENNIS W. GONZALEZ,
WILLIAM MADINA, KYLE BONER, RONALD LOZANO,
TIMOTHY REED, DAVID HUDSON, ANDRE TURNER,
ANTHONY SANDIFER, JOHN E. BACHER,
GUY DUNWALD, XAVIER J. RUIZ, STACY T. HAYNES,
MARCUS Y. PORTER, GARFIELD COOLEY, DENNIS E. JONES'EL,
RODOSOVALDO POZO, DU-YUL THAMES, GLENN TEREILL TURNER,
DONALD CAMBELL-LEE, RAYNELL MORGAN, TONY ALLEN DAVIS,
RASHID TALIB, CHIP BRANCH-BEY, ROBERT COLLINS-BEY,
CHRISTOPHER BERRY, FRANK ANASTASIA, JOSE ROSA,
MOSES COLLINS, MONTELL HORTON, MICHAEL BLACKBURN,
TODD JONES, MAURICE GREER, MAURICE DAVIS,
ABEL SILVA, FOUNTAINE GORDON, MATHEW SCHUMACHER,
JAMES D. TOWNS, AGUSTIN VELEZ, ANTONIO MENDEZ,
COURTNEY FIEDLER, DERRICK A. SANDERS,

EZRA CHARLES MARTIN, JR., LAMONT BROWN,
CORNELIUS MADDOX and GERALD A. TUCKER,

Plaintiffs,

ORDER

01-C-705-C

v.

GERALD A. BERGE,

Defendant.

This is a civil action brought by 77 plaintiffs now confined or previously confined at the Supermax Correctional Institution in Boscobel, Wisconsin. Defendant has removed the case to this court from the Circuit Court for Dane County, Wisconsin, because the complaint alleges violations of plaintiffs' federal constitutional rights in addition to their rights under state law. Defendant notes correctly that now that the case has been removed to federal court, the complaint must be screened pursuant to 28 U.S.C. § 1915A and he asks whether he must respond to plaintiffs' discovery requests before the complaint has been screened. Also before the court is plaintiff Tiggs's objection to removal of the case, which I construe as a motion for an order remanding the action to state court.

At the outset, I will order that all discovery in this case be stayed until further notice. In addition, I will deny plaintiff Tiggs's motion to remand because his objections to the removal do not warrant remand. Finally, I will delay screening the merits of the claims

raised in plaintiffs' complaint until each plaintiff named in this lawsuit has 1) signed the complaint; 2) advised the court that he has in his possession a copy of the complaint and its attachments and every other document plaintiffs have submitted in this case since the complaint was filed; and 3) identified the claims in the complaint that relate uniquely to him.

First, with respect to plaintiff Tiggs's objections to the removal of the case from the state circuit court, Tiggs argues that plaintiffs made the decision to file the case in state court because there are several state law claims raised in the complaint and that plaintiffs' choice of forum should be honored. 28 U.S.C. § 1441 allows a defendant "to remove any civil action brought in a state court of which the district courts of the United States have original jurisdiction." Tiggs points to no law suggesting that a case should be remanded to state court simply because the result of the removal is to deprive the plaintiffs of their choice of forum, and I am aware of none. Plaintiffs' complaint alleges violations of their constitutional rights; therefore, this court has original jurisdiction over it. It was properly removed.

Tiggs argues that this court is prohibited from presiding over cases already being tried in state court under the full faith and credit clause and under the Rooker-Feldman doctrine. Neither the full faith and credit clause nor the Rooker-Feldman doctrine has any relevance to this action. Therefore, these laws do not present a bar to hearing plaintiffs' case in this court and provide no ground for remanding it to state court. Plaintiff Tiggs's motion to

remand the case to the Circuit Court for Dane County will be denied.

I turn then to a preliminary review of plaintiffs' complaint. First, I conclude that it is fatally flawed because it is not signed with the original signatures of the plaintiffs as required by Fed. R. Civ. P. 11(a). Instead, plaintiffs have attached to their complaint one photocopied page of signatures and one page of carbon copied signatures. According to Rule 11, "an unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party." Before this case may proceed further as to any named plaintiff, that plaintiff will have to sign the complaint with his original signature.

Second, I will not allow the case to proceed as a group complaint unless I am assured that every plaintiff has a copy of the complaint and its attachments in his possession and that every plaintiff has a copy of every document plaintiffs filed in the case after the complaint was filed. The complaint is 22 pages long and is composed of 115 paragraphs of factual allegations. There are 397 pages of exhibits relating to the question of exhaustion of administrative remedies. One of plaintiffs' claims is that their constitutional rights are being violated by a prison rule prohibiting inmates from routing photocopied or typed legal documents and exhibits to each other. This contention raises a serious question whether every plaintiff named in this lawsuit has seen and read a copy of the complaint and whether every plaintiff presently has a copy of the complaint and its exhibits in his possession. It

raises questions as well whether every plaintiff is receiving and retaining a copy of the documents plaintiffs have filed since the original complaint was filed.

An individual proceeding pro se in a lawsuit is not permitted to represent other persons in the lawsuit who are also proceeding pro se. Each pro se party must be in a position to make his own decisions about the manner in which to respond to dispositive motions or prepare for further prosecution of his claims. A plaintiff is in no position to do this if he files a complaint but fails to keep a copy of it for his own records or fails to keep a complete record of the motions and other documents filed in the case. For this reason, I will dismiss from this suit any plaintiff who does not advise the court by February 14, 2002, that he has in his possession a copy of the complaint and all papers plaintiffs filed after the complaint. Such dismissal will be without prejudice to that plaintiff's filing a new lawsuit separate from this one at a later time.

Third, in their complaint, plaintiffs allege at least 20 separate claims of constitutional wrongdoings and violations of their rights under state law. It is clear from the allegations of the complaint that not all of the named plaintiffs have standing to raise each claim alleged in the complaint. For example, plaintiffs allege that approximately 35 of them are Muslim. This means that more than half of the plaintiffs lack standing to assert that their ability to practice the Muslim religion has been impaired by the various practices challenged in the complaint. In addition, plaintiffs allege that "one plaintiff" was held in control segregation

without clothing, shoes, mattress or other property for over six months. The plaintiff making such an allegation should identify himself. The other 76 plaintiffs cannot assert that claim. These are just two of several claims that do not appear to relate to all of the plaintiffs. Therefore, any plaintiff who fails to advise the court on precisely what claims he wishes to proceed in this case will be dropped from the lawsuit.

Finally, it is my experience that there are uniquely difficult problems that arise in cases involving multiple pro se plaintiffs. First any party, plaintiff or defendant, who files a document of any kind with the court must send a copy of that document to every other party before the court may review the contents of that document. Second, as noted above, no one pro se plaintiff may present the claims of any other pro se plaintiff in the case. Rather, if one plaintiff files a motion, even when he shows that he sent copies of his motion to all of the other plaintiffs, the court can consider the motion only as it relates to the plaintiff who filed it. In addition, where, as here, plaintiffs seek money damages for their alleged injuries, each plaintiff will be required to put in his own proof of the actual damages he suffered. In a case involving 77 pro se litigants, each of whom must file his own motion in order to benefit from a ruling on the motion and each of whom must prove his own damages, there is great potential for the inefficient use of judicial resources and unavoidable confusion in the management of the case. Therefore, I am reserving a decision whether I will require each plaintiff to file a separate lawsuit until after I have determined which claims will

survive screening under 28 U.S.C. § 1915A, if any, and how many plaintiffs are proceeding on those claims.

ORDER

IT IS ORDERED that all discovery in this case is STAYED until further notice.

Further, IT IS ORDERED that on or before February 14, 2002, each plaintiff must submit the following:

1) His own copy of page 19 of the complaint on which he has placed his original signature and a statement asserting affirmatively that he has read the entire complaint (each plaintiff may use the margin of the page to do this);

2) A paper specifying the paragraph numbers of the complaint that set forth the claims he has standing to assert; and

3) A separate paper listing the date and title of each motion or discovery request that he received from a co-plaintiff or that he has signed and submitted to the court.

Finally, IT IS ORDERED that any plaintiff failing to comply with the requirements of this order by February 14, 2002, will be dismissed as a plaintiff from this lawsuit without

prejudice to his filing his own lawsuit separate from this one.

Entered this 28th day of January, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge