

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

MATTHEW J. FRANK, Secretary of the Wisconsin Department of Corrections, JON E. LITSCHER, former Secretary of the Wisconsin Department of Corrections; CINDY O'DONNELL, Deputy Secretary to Litscher; JOHN RAY, Corrections Complaint Examiner ("C.C.E."); GERALD BERGE, Warden at Supermax Correctional Institution; PETER HUIBREGTSE, Deputy Warden of Supermax; LIEUTENANT JULIE BIGGAR, a Lt. at Supermax; ELLEN RAY, I.C.E.; SGT. JANTZEN; C.O. WETTER; C.O. S. GRONDIN; C.O. MUELLER; C.O. CLARK, all guards at Supermax; JOHN SHARPE, Manager Foxtrot Unit at Supermax; SGT. BOYELSON,

Defendants.

ORDER

02-C-21-C

In an order dated August 23, 2004, I modified the injunction concerning photocopies of clippings pursuant to directions provided in Lindell v. Frank, Nos. 03-2651 & 03-2765 (7th Cir. July 19, 2004). The modified injunction enjoined defendants from enforcing their

publisher's only rule to the extent that it prohibits plaintiff Lindell from receiving a reasonable number of photocopies of clippings that are from published sources and in a reasonable format.

Now before this court is plaintiff's motion to amend the injunction and schedule briefing on the issue. In addition, plaintiff has informed this court that he has filed a petition for a rehearing en banc with the Court of Appeals for the Seventh Circuit. Under Fed. R. App. P. 41(d)(1), the timely filing of a petition for rehearing en banc stays the mandate issued by the Court of Appeals until disposition of the motion. As a result, the modified injunction is stayed as well. Because the Court of Appeals has not issued a ruling on plaintiff's petition for rehearing, plaintiff's motion to amend the injunction and schedule briefing is premature. I will deny the motion as unnecessary pending a ruling by the Court of Appeals.

ORDER

IT IS ORDERED that plaintiff Nathaniel Allen Lindell's motion to amend the injunction and schedule briefing is DENIED as unnecessary.

Entered this 16th day of September, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge