IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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NATHANIEL ALLEN LINDELL,

Petitioner, ORDER

v. 02-C-473-C

SCOTT McCALLUM, Governor of Wisconsin; JON LITSCHER, Secretary of Wisconsin Department of Corrections; DICK VERHAGEN, former Administrator of Wisconsin's Department of Adult Institution; STEVEN CASPERSON, current Administrator of Wisconsin's Dept. of Adult Institutions; LAURA WOOD, policy advisor for D.A.I.; GARY R. McCAUGHTRY, former Warden of Waupun Correctional Institution; GERALD BERGE, Warden of Supermax; CINDY O'DONNELL, assistant deputy of Jon Litscher; JOHN RAY, Corrections Complaint Examiner; SANDY HAUTAMAKI, former inmate complaint examiner at W.C.I., now a C.C.E.; CATHY JESS and JODINE DEPPISCH, deputy wardens at W.C.I.; N. SALMON, secretary of Gerald Berge; PETER HUIBREGTSE, former security director at W.C.I., now deputy warden at Supermax; MARC CLEMENTS, Security Director at W.C.I.; CURT JENSSEN, Manager of W.C.I.'s Health and Segregation Unit; DEB TETZLAFF, W.C.I.'s program director; CAPTAIN STEVE SCHUELER, a Captain at W.C.I.; CAPTAIN MURASKI, a Captain at W.C.I.; LINDA ALSUM-O'DONOVAN, and JAMES MUENCHOW, both inmate complaint examiners (I.C.E.) at W.C.I.; ELLEN RAY, TOM "DOE," both I.C.E.'s at Supermax; SANDRA GRONDIN, C.O. SHANNON, SGT. HOTTENSTEIN and SGT. O'ROURKE - all guards at Supermax; J.C. SMITS, Mailroom employee at W.C.I.; JIM WEGNER, Supervisor of W.C.I.'s chapel; CHAPLAINS NORTH and FRANCIS, at W.C.I.; C.O. WATSON, guard at W.C.I.; CAPTAIN TODD OVERBO at Supermax; VICKI SHARPE, Supermax's Program Director; JOHN SHARPE, Manager of Delta Unit,

formerly Fox Trot Unit at Supermax; CAPTAIN LINJER at Supermax; WILLIAM SCHULTZ; LT. RANDALL GARRITSON and CAPT. ECKSTEIN, staff at W.C.I.; MR. HOMBE, SGT. HOTTENSTEIN, Supermax staff,

Respondents.

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On December 12, 2003, the Court of Appeals for the Seventh Circuit vacated the judgment of dismissal of this action and remanded the case for further proceedings. Before the court of appeals returned the record to this court, petitioner submitted a proposed amended complaint. He requests that the amended complaint be considered as the operative pleading in the case. Petitioner points out correctly that this case is at its beginning stage. The original complaint has neither been screened nor served on respondents. Accordingly, I conclude that it is in the interest of justice to allow petitioner to substitute his amended complaint for the original complaint he filed in this case.

In his amended complaint, petitioner adds several new respondents to the action. However, he has not included respondents Dick Verhagen, Sandra Grondin and C.O. Shannon in the caption of his amended complaint. Therefore, these respondents will be dismissed from the case. Also, I note that in the caption of his original complaint, petitioner listed respondent Hottenstein twice. In the amended complaint, petitioner corrects this mistake.

ORDER

IT IS ORDERED that petitioner's motion for leave to substitute his amended complaint for the original complaint in this case is GRANTED. The amended complaint shall be the operative pleading.

Further, IT IS ORDERED that respondents Dick Verhagen, Sandra Grondin and C.O. Shannon are DISMISSED from the action.

Entered this 2nd day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge