

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

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NATHANIEL ALLEN LINDELL,

Petitioner,

v.

ORDER

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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Judgment was entered in this case on February 3, 2003, denying petitioner's request for leave to proceed in forma pauperis. Petitioner has filed an appeal and I have concluded that plaintiff's appeal is not taken in bad faith and that he is not barred by the three strikes provision of 28 U.S.C. § 1915, subsection (g), from proceeding in forma pauperis on appeal. Petitioner has until March 24, 2003, in which to submit a trust fund account statement so that I can assess an initial partial payment of the fee for filing the appeal. Now, however, it has come to the court's attention that at the time he filed his notice of appeal, petitioner filed a motion to consolidate one or more claims in this case with another of his cases, Lindell v. Doe, 01-C-209-C, which was affirmed on appeal with respect to all of petitioner's claims except one, which was remanded with instructions to allow petitioner leave to proceed. Plaintiff's motion to consolidate claims in this closed case with claims in a pending lawsuit will be denied. A district court has no legal authority to consolidate a pending case with a case that has been closed in the district court and is on appeal and under the jurisdiction of the court of appeals.

ORDER

IT IS ORDERED that plaintiff's motion to consolidate this closed case with Lindell  
v. Doe, 01-C-209-C, is DENIED.

Entered this 5th day of March, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge