

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

JOHN D. TIGGS, JR., JAMES BURBA,

Plaintiffs,

v.

GERALD A. BERGE, Warden; JAMES
PARISI, Security Director; and LINDA
HODDY-TRIPP, Unit Manager,

Defendants.

ORDER

00-C-317-C

This civil case for money damages is before the court on three motions: 1) the motion of defendants Berge and Hody-Tripp for clarification of the order entered on November 1, 2000; 2) the motion of the same defendants for an extension of time in which to answer the complaint; and 3) plaintiff John D. Tiggs, Jr.'s October 23, 2000 motion to file and serve an amended complaint. Defendants' motions will be granted; plaintiff Tiggs's motion will be denied because the motion was prepared before the November 1 order reinstating James Burba as a plaintiff in the suit. If plaintiffs decide to file another motion to amend, they should do so only after taking into consideration the new format of the lawsuit.

In the November 1 order, it was my intention that plaintiffs would be allowed to proceed on the following claims and against the following defendants:

1. The alleged rejection of plaintiffs' unprivileged correspondence because it described atrocities at the prison. This claim will go forward against defendants Berge and Parisi.

2. Plaintiffs' claim that their cells are illuminated 24 hours a day. This claim will go forward against defendants Berge and Praisi.

3. That plaintiff Tiggs was subjected to a clogged drain for 21 days. This claim will go forward against defendants Berge and Parisi but will pertain only to plaintiff Tiggs.

4. Plaintiffs' religious claim that only Catholic programming and Catholic publications are allowed in the prison. This claim will go forward against defendants Berge and Parisi.

5. Plaintiff Tiggs' claim of inadequate medical care. This claim will go forward as to plaintiff Tiggs only and only against defendant Hoddy-Tripp.

6. Plaintiff Tiggs' claim that his suicide attempt was disclosed improperly. This claim will go forward against defendant Berge only and as to plaintiff Tiggs only.

In further clarification, I note that in the order section of the August 31, 2000 order, I denied both plaintiffs leave to proceed on their claim challenging the prison's book policy because plaintiffs had failed to exhaust their administrative remedies. I hold now that plaintiffs cannot go forward on this claim, not because they failed to exhaust their administrative

remedies but because these allegations do not state a claim on which relief may be granted.

Defendants have moved for an extension of time in which to answer the new allegations on which I have allowed plaintiffs to proceed. Defendants may have until December 14, 2000, in which to serve and file their answer.

In addition, because plaintiffs were not allowed to proceed against James A. Parisi originally, they will have to serve this defendant.

! Service of the complaint against this defendant will be made promptly after plaintiff Tiggs submits to the clerk of court the following:

1. one (1) completed marshals service form; and
2. two (3) completed summonses, one for defendant Parisi and one for the court.

Enclosed with a copy of this order to plaintiff Tiggs is a set of the necessary forms. If plaintiff Tiggs fails to submit the completed marshals service and summons forms before November 28, 2000, or explain why he cannot do so,

plaintiffs' complaint against defendant Parisi will be subject to dismissal for failure to prosecute.

Entered this 14th day of November, 2000.

BY THE COURT:

BARBARA B. CRABB
District Judge