

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

TODD A. LODHOLZ,

Plaintiff,

v.

STEPHEN M. PUCKETT,
CORRECTIONS CORPORATION OF
AMERICA, KAY HIGGINS, JOHN DOE(S),

Defendants.

ORDER

03-C-350-C

Plaintiff is proceeding in this action on a claim that defendants were deliberately indifferent to his serious medical needs in violation of his Eighth Amendment rights. At the time I granted plaintiff leave to proceed on his Eighth Amendment claim, I declined to exercise supplemental jurisdiction over plaintiff's state law claim in which plaintiff alleged that his transfer to an Oklahoma prison violated an Oklahoma statute prohibiting private prisons in that state from housing out-of-state prisoners being held on misdemeanor convictions.

On July 29, 2003, plaintiff moved for reconsideration of the decision to decline to exercise supplemental jurisdiction over his state law claim. I denied that motion without

substantial discussion in an order dated August 1, 2003. Now plaintiff has filed two documents. The first is titled “Motion for Findings and Conclusions of Law by the Court,” in which plaintiff appears to be demanding an explanation why I have declined to take supplemental jurisdiction over his state law claim. In the second document titled “Motion for Court Order,” plaintiff requests court assistance in obtaining an address for defendant Kay Higgins so that Higgins can be served with plaintiff’s complaint.

With respect to plaintiff’s motion for a further explanation why I have declined to take supplemental jurisdiction over his state law claim, I will state only that typically, I exercise supplemental jurisdiction over a plaintiff’s state law claims when the state law claim arises out of the same operative facts as the federal claims on which I have allowed the plaintiff to proceed. See 28 U.S.C. § 1367(c)(3)); see also Groce v. Eli Lilly & Co., 193 F.3d 496, 500 (7th Cir. 1999) (district court has discretion to retain or refuse jurisdiction over state law claims). In this case, the facts and the law governing plaintiff’s Eighth Amendment claim are distinct from the facts and the law governing his claim that his transfer violated Oklahoma state law on account of his misdemeanor status. No further explanation is required. Plaintiff would be well-advised to turn his attention to gathering evidence to prove his Eighth Amendment claim.

In his “motion for court order” pertaining to defendant Kay Higgins, plaintiff states that he sent a copy of his complaint and the appropriate forms to obtain a waiver of service

of a summons to defendant Higgins at the North Fork Correctional Facility in Sayre, Oklahoma, but that his mailing has been returned to him undelivered. He asks that the court order defendant Corrections Corporation of America to disclose defendant Higgins's new address so that he can accomplish service of his complaint upon her. He does not suggest that he has asked defendant Corrections Corporation of America directly for defendant Higgins's new address and that he has been denied this information.

However, in Sellers v. United States, 902 F.2d 598, 602 (7th Cir. 1990), the Court of Appeals for the Seventh Circuit recognized the serious security concerns that arise when prisoners have access to the personal addresses of former or current prison employees. The concerns are no less serious when the employees are contract employees. For this reason many, if not all, prison or prison contract employees may take steps to insure that their personal addresses are not available in public records accessible through the Internet, and the defendant corporation may be under an obligation to refrain from divulging that information to plaintiff. In this case, however, there are three potential alternatives.

Charles T. Sundberg, a lawyer at the firm of Stafford Rosenbaum, 3 South Pinckney St., Suite 1000, Madison, Wisconsin, 53701-1784, has appeared in this action on behalf of defendants Higgins and Corrections Corporation of America. It is possible that Mr. Sundberg would be willing to accept service of process on Ms. Higgins's behalf. In this event, it would be unnecessary for anyone other than Sundberg to know defendant Higgins's

personal address. Plaintiff does not suggest that he has asked Mr. Sundberg to accept service on behalf of defendant Higgins and that Mr. Sundberg has declined to do so.

If Mr. Sundberg were to decline to accept service for defendant Higgins, plaintiff could request a private process server to attempt to locate and serve defendant Higgins. A process server such as a local law enforcement officer might be in a better position to obtain defendant Higgins's address from Mr. Sundberg or from another source to which plaintiff may not have access and need not divulge the address to plaintiff in making the return.

Finally, plaintiff may submit to the court a trust fund account statement for the last six months and request leave to proceed in forma pauperis for the purpose of having the defendant served with his complaint. If plaintiff qualifies for pauper status, I would grant the request and ask the United States Marshal to make a reasonable effort to locate the defendant and serve her with plaintiff's complaint. Because it does not appear that plaintiff has pursued any of these avenues for serving defendant Higgins, I will deny as premature his motion for an order requiring defendant Corrections Corporation of America to provide him with Higgins's address.

ORDER

IT IS ORDERED that

1. Plaintiff's "Motion for Findings and Conclusions of Law by the Court" is DENIED

as unnecessary in the exercise of the court's discretion to decline to take supplemental jurisdiction over plaintiff's state law claim.

2. Plaintiff's motion for a court order requiring defendant Corrections Corporation of America to disclose defendant Higgins's new address so that he can accomplish service of his complaint upon her is DENIED as premature.

3. Plaintiff is to pursue promptly one or more of the alternative methods for serving defendant Higgins with his complaint set out above.

Entered this 15th day of August, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge