

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

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JONATHON M. MARK,

Plaintiff,

v.

OFFICERS OLSON; HAGLIN; HARSMA  
GRANTON'S 1ST, 2ND, and 3RD SHIFT  
OFFICERS BETWEEN THE DATES OF  
7-29-02 AND 8-13-02; SGT. MESHUN;  
SGT. McAURTHUR; MRS. TEGELS;  
MR. DOUGHERTY; LT. BENGAL; LT. DOHMS;  
LT. JOHNSON; LT. (JANE DOE); MEDICAL  
STAFF BETWEEN 7-15-02 TO 9-15-02 (JOHN  
AND JANE DOES), RANDAL S. BERZ,  
THOMAS KARLEN (In Official and Individual  
Capacity),

Defendants.  
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ORDER

03-C-516-C

In an order dated October 21, 2003, I allowed plaintiff to proceed on several claims under 42 U.S.C. § 1983 against defendants Olson, Haglin, Meshun, McAurthur, Tegels, Dougherty, Bengal, Dohms, Johnson and "Medical Staff Between 7-15-02 to 9-15-02 (John and Jane Does)". I dismissed from this case defendants Harsma, "Granton's 1st, 2nd and 3rd Shift Officers Between the Dates of 7-29-02 and 8-13-02" and "Lt. (Jane Doe)" because plaintiff failed to state a claim upon which relief could be granted against any of these

defendants. These were all the defendants that plaintiff listed in the caption of his complaint. However, it has come to my attention that on the second page of plaintiff's complaint, he included another list of "additional defendants." This list is identical to the one in the caption of the complaint with the exceptions that it also includes Randall S. Berz and Thomas Karlen.

There is no mention of Thomas Karlen in plaintiff's "statement of claim" or in the 33-page "affidavit" that plaintiff attached to his complaint. Therefore, to the extent that plaintiff intended to sue Karlen, this defendant will be dismissed because plaintiff has failed to provide Karlen with any notice of the nature of his claim. Plaintiff refers to Randall Berz once in his statement of claim, alleging that he "did not investigate the information I gave him" relating to plaintiff's disciplinary hearing for having a razor blade. However, I concluded in the October 21 order that the due process protections of the Fourteenth Amendment did not apply to this hearing. Therefore, even if the constitution would impose a duty to investigate in some circumstances, there was no such duty in this case. Accordingly, Berz must be dismissed as well.

#### ORDER

IT IS ORDERED that defendants Randal Berz and Thomas Karlen are DISMISSED

from this case because plaintiff's claims against these defendants are legally frivolous.

Entered this 21st day of October, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge