

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

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JAMES J. KAUFMAN,

Petitioner,

v.

ORDER

03-C-27-C

MATTHEW FRANK, JON E. LITSCHER,  
GARY R. McCAUGHTRY, MARC W.  
CLEMENTS, SGT. McCARTHY, JAMES  
MUENCHOW, RENEE RONZANI,  
SANDY HAUTAMAKI, JOHN RAY,  
CYNTHIA L. O'DONNELL, DARILYN J.  
MARTHALER and JAMYI WITCH,

Respondents.

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In response to this court's order of February 24, 2003, petitioner has advised the court that he wishes to continue with the prosecution of this case. In addition, he has moved for a pretrial conference, requested 5 or 6 subpoena forms for trial witnesses, filed proposed voir dire questions and submitted copies of requests for production of documents and interrogatories he states he has served on assistant Attorney General Charles Hoorstra.

Petitioner's motion for a pretrial conference will be denied as premature. Before any pretrial conference will be scheduled in this case, the court must screen the claims petitioner

raises in his complaint pursuant to 28 U.S.C. § 1915(e)(2). If some or all of petitioner's complaint survives the screening process, the respondents against whom petitioner will be allowed to proceed will have to be served with petitioner's complaint and will have a period of time in which to file a response. A preliminary pretrial conference will be scheduled after the responses have been filed.

Also, petitioner's request for subpoena forms will be denied as premature. Assuming some or all of petitioner's claims survive the screening process, the magistrate judge will conduct a preliminary pretrial conference at which he will set deadlines for completing discovery and filing dispositive motions. In many instances, cases such as petitioner's are decided on the parties' dispositive motions without a trial. Therefore, until it is clear that some or all of the case is going to trial, it is premature to issue subpoenas for trial witnesses.

Finally, petitioner's discovery requests and voir dire questions will be placed in the court's file, but no consideration will be given to them. At this early stage of the lawsuit, petitioner does not know which of his claims, if any, will survive screening, so he cannot fashion his discovery requests around those claims on which he has been granted leave to proceed. He does not know the name of the lawyer who will be representing the respondents against whom he may be allowed to proceed. Thus, by sending a copy of his discovery requests and voir dire questions to Charles Hoornstra, he has not complied with the service requirements of Fed. R. Civ. P. 5, because Hoornstra is not a respondent and has not entered

an appearance as the respondents' attorney. The magistrate judge will establish the time within which the parties are to engage in discovery and the deadline for exchanging pretrial submissions at the preliminary pretrial conference. If petitioner had waited until after the preliminary pretrial conference to begin discovery, he would know also that he is not to file his discovery requests directly with the court unless he is required to do so in connection with a motion to compel discovery. For all these reasons, petitioner's premature discovery requests and voir dire questions will not be considered by the court.

#### ORDER

IT IS ORDERED that prison officials at the Waupun Correctional Institution shall deduct the sum of \$3.86 from petitioner's trust fund account and forward that sum to the clerk of court no later than March 12, 2003, to satisfy the full amount of the initial partial payment petitioner has been assessed in this case.

Further, IT IS ORDERED that petitioner's motion for a pretrial conference and

request for subpoena forms are DENIED as premature.

Entered this 3rd day of March, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge