

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

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KURTIS L. KING,

Plaintiff,

v.

MATTHEW FRANK in his official capacity;
GARY R. McCAUGHTRY, in his official
and individual capacities;
CURTIS JANSSEN, in his official
and individual capacities;
STEVEN SCHUELER, in his official
and individual capacities;
DOES 1-100, Health and Segregation
Complex staff, and both security
and clinical services staff in their official
and individual capacities,

Defendants.

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MEMORANDUM

04-C-338-C

In an order entered in this case on July 27, 2004, I screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A and allowed him to proceed on several of his claims against the defendants. In the same order, I noted that because plaintiff was not proceeding in forma pauperis, it was his responsibility to serve defendants with his complaint, starting with a request that each defendant waive service of a summons pursuant to Fed. R. Civ. P. 4(d).

On August 4, 2004, Linda Bredeson, a paralegal with the Wisconsin Department of Justice, sent the court a letter indicating that the defendants Frank, McCaughtry, Janssen and Schueler had accepted service of process. It does not appear that a copy of the letter was sent to plaintiff. Now plaintiff has written a letter to the clerk of court dated August 23, 2004, requesting issuance of summons forms so that he can serve the defendants personally. Like defendants' letter, plaintiff's letter does not show that a copy has been sent to Assistant Attorney General John Glinski, who entered a notice of appearance as defendants' counsel on August 13, 2004.

In an effort to complete the parties' records in this case, I am sending plaintiff a copy of Ms. Bredeson's letter and am sending a copy of plaintiff's letter to Assistant Attorney General Glinski. In the future, both parties are to send copies of their submissions to each other in compliance with Fed. R. Civ. P. 5.

As for plaintiff's request for the issuance of summons, I will direct the clerk of court to refrain from issuing the summonses because they are unnecessary. Although technically defendants' signed waiver forms should have been returned to plaintiff so that he could file them with the court, Ms. Bredeson's letter is sufficient to constitute proof that defendants have waived service of a summons and accepted informal service of plaintiff's complaint as permitted under Fed. R. Civ. P. 4(d). Therefore, it is unnecessary for plaintiff to incur the expense of serving his complaint on each defendant personally.

ORDER

The clerk of the court is directed to refrain from issuing summonses to plaintiff so that he can serve defendants personally with his complaint, because the defendants have waived service of a summons and have entered their appearance by counsel on the record of this case.

Entered this 26th day of August, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge