

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

WILLIAM FAULKNER, #244067,

Plaintiff,

ORDER

v.

04-C-408-C

MR. JONES, Unit Manager, Whiteville,

Defendant.

On July 23, 2004, I granted plaintiff William Faulkner leave to proceed under 28 U.S.C. § 1915A on his claim that defendant Jones failed to protect him from second hand smoke, in violation of plaintiff's Eighth Amendment right to be free from cruel and unusual punishment. In the same order, I told plaintiff to serve his complaint on defendant Jones promptly and file proof of service of his complaint as soon as service has been accomplished. I ordered also that if, by October 1, 2004, plaintiff failed to submit proof of service of his complaint on the defendant or explain his inability to do so, I would direct plaintiff to show cause why his case should not be dismissed for lack of prosecution. Plaintiff has not responded to the July 23 order.

Now, therefore, IT IS ORDERED that plaintiff may have until October 19, 2004, in

which to show cause, if any there be, why he has not filed proof that he has served defendant Jones with his complaint as required by Fed. R. Civ. P. 4. If, by October 19, 2004, plaintiff fails to respond to this order, then the clerk of court is directed to enter judgment in favor of defendant Jones, dismissing this case without prejudice for plaintiff's failure to prosecute.

Entered this 5th day of October, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge