

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

CINDY O'DONNELL, SANDRA
HAUTAMAKI, JOHN RAY,
PETER HUIBREGTSE, GERALD BERGE,
SGT. S. GRONDIN, C.O. D. ESSER,
KELLY TRUMM, C.O. JOHNSON,

Defendants.

MEMORANDUM

05-C-04-C

This case is scheduled for jury trial on February 28, 2006, on plaintiff's claims that his First Amendment rights have been violated by the decision of defendants Haines, Berge, Trumm, Huibregtse, Hautamaki and O'Donnell to enforce prison policies prohibiting prisoners from possessing magazines with torn covers and that his Eighth Amendment rights were violated when defendant Esser used excessive force against him. This memorandum will provide the parties with updated information regarding plaintiff's proposed witness, Willie Williams.

In an order dated January 30, 2006, the court granted plaintiff's petition to issue a

writ of habeas corpus ad testificandum for Williams, an inmate at the Wisconsin Secure Program Facility in Boscobel, Wisconsin. The writ issued on February 2, 2006 and was re-issued on February 17, when the trial date was moved from February 27, 2006 to February 28, 2006. On February 21, 2006, the writ was returned to the court, with a memorandum indicating that inmate Williams had been released from prison on January 31, 2006.

In an effort to insure that Williams was provided with accurate information regarding the time and date of trial, the court contacted Lynette Dankert, the Wisconsin Department of Corrections agent assigned to supervise Williams following his release from prison. On February 21, 2006, Dankert informed the court that Williams had absconded from supervision and that his current whereabouts are unknown. Nevertheless, the court requested that the agent ask Williams to contact the court for updated information regarding the trial date, should he be located before February 28, 2006.

Because it appears unlikely that Williams will appear to testify on plaintiff's behalf, plaintiff should be aware of this fact so that he can be prepared to try his case without Williams.

Entered this 21st day of February, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge