

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

GARY B. CAMPBELL, and on
behalf of TIMOTHY ALI, SHEFFIELD
GROVES, PERCY BROWN, RICHARD SAMPLE,
ABDUL MUHAMMAD, CORY WELCH,
ERIC JOHNSON, DARRELL CAMPBELL,
AMONTE JACKSON, TORRY WASHINGTON,
FREDDIE L. SMITH, MIGUEL SEGARRA,
ERIC D. WINFREY, SCOTT ANDERSON, JR.,
and JOE IRWIN,

Petitioners,

v.

MILWAUKEE COUNTY JAIL, SHERIFF
DEPARTMENT, DAVID A. CLARKE, Sheriff,
KEVIN CARR, Deputy Inspector, and
RICHARD R. SCHMIDT, Deputy Inspector,

Respondents.

ORDER

05-C-363-C

In an order entered in this case on June 24, 2005, I directed each petitioner to advise the court no later than July 15, 2005, whether he wished to prosecute this action. In addition, I ordered that any petitioner who opted to proceed with the action would have until July 15, 2005 in which to submit a trust fund account statement for the period

beginning approximately January 1, 2005 and ending approximately July 1, 2005. Finally, I stated that any petitioner who failed to respond to the June 24 order by July 15, 2005, or who advised the court that he does not want to remain a party to the complaint, would be considered to have opted out of the group lawsuit and would be dismissed from the lawsuit without owing a filing fee.

Copies of the June 24 order addressed to petitioners Scott Anderson, Jr., Eric Winfrey and Torry Washington have been returned to the court marked, "Return to Sender," "Not at this Address" or "Not in Custody." Because these three individuals have not kept the court informed about their current addresses, they will be dismissed from the lawsuit for their failure to prosecute.

Petitioners Amonte Jackson and Timothy Ali have written letters to the court stating their desire to remain a part of this action. However, neither of these petitioners has submitted a trust fund account statement as directed in the June 24 order. Therefore, I will grant them a modest extension of time in which to submit the statements. If either petitioner fails to submit the required statements by the extended deadline, I will dismiss the complaint as to them unless they supply sufficient proof that they made diligent efforts to obtain the statements and that jail officials ignored or refused to honor their requests.

Petitioners Gary Campbell and Percy Brown have submitted trust fund account statements. From these statements, I conclude that Gary Campbell must pay \$170.33 as an

initial partial payment of the \$250 fee for filing his complaint and that Percy Brown must pay \$19.00 as an initial partial payment of the \$250 filing fee for his action.

Petitioners Sheffield Groves, Richard Sample, Abdul Muhammad, Cory Welch, Eric Johnson, Darrell Campbell, Freddie Smith, Miguel Segarra and Joe Irwin failed to respond to the June 24 order. They are considered to have opted out of this lawsuit.

In addition to submitting a trust fund account statement, petitioner Gary Campbell filed a motion to amend the complaint, together with a proposed amended complaint in which he names additional inmates as group petitioners, additional proposed respondents, and claims that were not included in the original complaint. These documents are accompanied by a request for class certification.

Because the proposed amended complaint is not signed by anyone other than Gary Campbell, I will not substitute it for the original complaint filed in this case. Gary Campbell is not authorized to represent other persons proceeding pro se. However, I will treat the proposed amended complaint as a separate pleading brought by petitioner Gary Campbell. Because Campbell's claims arise out of a complaint that is different from the complaint petitioner Percy Brown has signed, I will sever Campbell's suit from this one and assign it a new case number. However, because no one other than Campbell has signed the complaint that is now Campbell's operative pleading, no other petitioner named in the caption of the suit will be considered a party to that suit. Petitioner Campbell's motion for class

certification with respect to the claims raised in his lawsuit will be considered at the time his complaint is screened pursuant to 28 U.S.C. § 1915(e)(2).

ORDER

IT IS ORDERED that

1. Petitioners Amonte Jackson and Timothy Ali may have an enlargement of time to August 12, 2005, in which to submit trust fund account statements for the period beginning approximately January 1, 2005 and ending approximately July 1, 2005. If, by August 12, 2005, petitioners Jackson and Ali fail to submit the required statements or proof that they have made diligent efforts to obtain the statements and their efforts have been ignored or denied, I will construe their non-compliance as an indication that they no longer wish to prosecute this action and I will dismiss them from this case.

2. Petitioners Sheffield Groves, Richard Sample, Abdul Muhammad, Cory Welch, Eric Johnson, Darrell Campbell, Freddie Smith, Miguel Segarra and Joe Irwin are considered to have opted out of this lawsuit. They are DISMISSED from the action.

3. Petitioners Scott Anderson, Jr., Eric Winfrey and Torry Washington are DISMISSED from this action for their failure to prosecute.

4. Petitioner Percy Brown is assessed \$19.00 as an initial partial payment of the \$250 fee for filing this case. He is to submit a check or money order made payable to the

clerk of court in the amount of \$19.00 on or before August 22, 2005. If, by August 22, 2005, petitioner fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn from this action voluntarily.

5. The claims of petitioner Gary Campbell are SEVERED pursuant to Fed. R. Civ. P. 21. The clerk of court is directed to assign a new case number for petitioner Campbell and treat petitioner Campbell's proposed amended complaint as the operative pleading in his case. Petitioner Gary Campbell will be the sole petitioner in the new case. The additional named petitioners are DISMISSED from the action for their failure to sign the complaint.

6. Petitioner Gary Campbell is assessed \$170.33 as an initial partial payment of the \$250 fee for filing his case. He is to submit a check or money order made payable to the clerk of court in the amount of \$170.33 on or before August 22, 2005. If, by August 22, 2005, petitioner Campbell fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn from the action voluntarily.

7. A decision on petitioner Campbell's motion for class certification is STAYED pending screening of the allegations in his complaint pursuant to 28 U.S.C. § 1915(e)(2).

Entered this 1st day of August, 2005.

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