

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

CERTIFIED COPY

PLRA C.R. 3(b) FINAL ORDER

April 7, 2023

No. 22-2728	TITUS HENDERSON, Plaintiff - Appellant v. GARY BOUGHTON, et al., Defendants - Appellees
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Originating Case Information:

District Court No: 2:20-cv-01593-JPS

Eastern District of Wisconsin

District Judge J. P. Stadtmauer

The pro se appellant was DENIED leave to proceed on appeal in forma pauperis by the appellate court on March 3, 2023 and was given fourteen (14) days to pay the \$505.00 filing fee. The pro se appellant has not paid the \$505.00 appellate fee. Accordingly,

IT IS ORDERED that this appeal is **DISMISSED** for failure to pay the required docketing fee pursuant to Circuit Rule 3(b).

IT IS FURTHER ORDERED that the appellant pay the appellate fee of \$505.00 to the clerk of the district court. The clerk of the district court shall collect the appellate fees from the prisoner's trust fund account using the mechanism of *Section 1915(b)*. *Newlin v. Helman*, 123 F.3d 429, 433 (7th Cir. 1997).

form name: c7_PLRA_3bFinalOrder (form ID: 142)

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ORDER

March 3, 2023

Before

DIANE P. WOOD, *Circuit Judge*
AMY J. ST. EVE, *Circuit Judge*

No. 22-2728	TITUS HENDERSON, Plaintiff - Appellant v. GARY BOUGHTON, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 2:20-cv-01593-JPS Eastern District of Wisconsin District Judge J. P. Stadtmueller	

The following are before the court:

1. **MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**, filed on January 30, 2023, by the pro se appellant.
2. **MEMORANDUM IN SUPPORT OF PLRA MOTION FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS**, filed on January 30, 2023, by the pro se appellant.

Upon consideration of appellant's motions, the district court's order pursuant to 28 U.S.C. § 1915(a)(3) certifying that the appeal was filed in bad faith, and the record on appeal,

IT IS ORDERED that the motion for leave to proceed in forma pauperis on appeal is **DENIED**. *See Lee v. Clinton*, 209 F.3d 1025 (7th Cir. 2000). Appellant Titus Henderson has not identified a good faith issue that the district court erred in dismissing his complaint. Henderson shall pay the required docketing fee within 14 days, or this appeal will be dismissed for failure to prosecute pursuant to Circuit Rule 3(b). *See Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997).

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ORDER

October 20, 2022

By the Court:

No. 22-2728	TITUS HENDERSON, Plaintiff - Appellant v. GARY BOUGHTON, et al., Defendants - Appellees
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Originating Case Information:

District Court No: 2:20-cv-01593-JPS

Eastern District of Wisconsin

District Judge J. P. Stadtmauer

No. 22-2851	TITUS HENDERSON, Plaintiff - Appellant v. GARY BOUGHTON, et al., Defendants - Appellees
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Originating Case Information:

District Court No: 2:20-cv-01593-JPS

Eastern District of Wisconsin

District Judge J. P. Stadtmauer

On September 28, 2022, the appellant filed a notice of appeal from the district court's final judgment and denial of reconsideration, and appeal no. 22-2728 was opened. On October 19, 2022, the district court received a second notice of appeal challenging the district court's final order and judgment, and a second appeal, 22-2851, was opened. Both filings seek to challenge the same district court judgment, and two separate appeals are not necessary. See Fed. R. App. P. 4(a)(4)(A)(vi). Accordingly,

IT IS ORDERED that appeal no. 22-2851 is administratively **CLOSED**. No appellate filing fees for appeal no. 22-2851 shall be imposed.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TITUS HENDERSON,

Plaintiff,

v.

WARDEN GARY BOUGHTON,
PETER HAIBRECHTSE, TIM
HAINES, LT. TOM, LT. HANFIELD,
LT. BOISEN, LT. PRIMMER, ELLEN
RAY, J. SHANNON-SHARPE, TROY
HERNIANS, J. SWEENEY, D.
GARDNER, LEBEUS BROWN,
LYNDA SCHWARDT, KEVIN CARR,
PAUL KEMPER, JASON ALDANA,
and WISCONSIN DEPARTMENT OF
CORRECTIONS,

Defendants.

Case No. 20-CV-1593-JPS

ORDER

On August 10, 2021, the Court screened Plaintiff's complaint, held that it violated Federal Rules of Civil Procedure 18 and 20, and ordered Plaintiff to submit an amended complaint by September 10, 2021. ECF No. 9. Plaintiff did not file an amended complaint. On April 27, 2022, the Court therefore dismissed the case, without prejudice, for the failure to state a claim and entered judgment accordingly. ECF Nos. 12, 13. On May 4, 2022, Plaintiff filed a motion for reconsideration of the dismissal. ECF No. 14. The Court denied Plaintiff's motion on August 23, 2022. ECF No. 15. On September 28, 2022, Plaintiff filed a notice of appeal, ECF No. 16, along with a later filed motion for leave to appeal without prepayment of the filing fee, ECF No. 21.

Plaintiff may not proceed without prepayment of the filing fee on appeal if the Court certifies in writing that the appeal is not taken in "good faith." 28 U.S.C. § 1915(a)(3). To determine whether Plaintiff takes the appeal in "good faith," the Court must determine whether "a reasonable person could suppose that the appeal has some merit." *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000); *see also Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). An appeal is taken in "good faith" when it seeks review of an issue that is not clearly frivolous. *Lee*, 209 F.3d at 1026. This is the case when a reasonable person could suppose the issue to have some legal merit. *Id.*

As applied here, the Court finds that Plaintiff's appeal is not taken in good faith. Plaintiff's basis for appeal is whether racial bias/judicial conflict required recusal. ECF No. 21 at 1. The Court is unpersuaded that a reasonable person would find the appeal has merit. As such, the Court will deny Plaintiff's motion for leave to appeal without prepayment of the filing fee.

Because the Court certifies that the appeal is not taken in good faith, the Court provides the following information to Plaintiff regarding proceeding before the Seventh Circuit. Plaintiff will not be able to proceed on appeal without paying the filing fee, unless the court of appeals gives him permission to do so. Plaintiff has 30 days from the date of this order to request that the Seventh Circuit review the Court's denial of his motion for leave to appeal without prepayment of the filing fee on appeal. Fed. R. App. P. 24. If Plaintiff requests review by the Seventh Circuit, he must include an affidavit and statement of issues he intends to present on appeal, pursuant to Fed. R. App. P. 24(a). He must also provide a copy of this order, in addition to the notice of appeal he previously filed. If Plaintiff does not

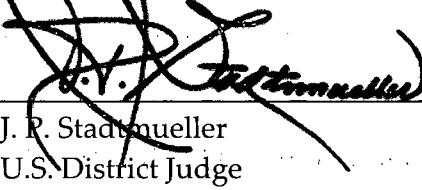
request review of this order, the Seventh Circuit may choose not to address the Court's denial of Plaintiff's motion; instead, it may require Plaintiff to pay the full filing fee before it considers his case. Failure to pay a required fee may result in dismissal of the appeal.

Accordingly,

IT IS ORDERED that Plaintiff's motion for leave to appeal without prepayment of the filing fee, ECF No. 21, be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 27th day of October, 2022.

BY THE COURT:


J. P. Stadtmauer
U.S. District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TITUS HENDERSON,

Plaintiff,

v.

WARDEN GARY BOUGHTON,
PETER HAIBRECHTSE, TIM
HAINES, LT. TOM, LT. HANFIELD,
LT. BOISEN, LT. PRIMMER, ELLEN
RAY, J. SHANNON-SHARPE, TROY
HERNIANS, J. SWEENEY, D.
GARDNER, LEBEUS BROWN,
LYNDA SCHWARDT, KEVIN CARR,
PAUL KEMPER, JASON ALDANA,
and WISCONSIN DEPARTMENT OF
CORRECTIONS,

Defendants.

Case No. 20-CV-1593-JPS

JUDGMENT

Decision by Court. This action came on for consideration before the Court and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that this action be and the same is hereby **DISMISSED** without prejudice for failure to state a claim.

APPROVED:


J.R. Stadtmueller
U.S. District Judge

April 27, 2022

Date

GINA M. COLLETTI

Clerk of Court

s/ Jodi L. Malek

By: Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TITUS HENDERSON,

Plaintiff,

v.

WARDEN GARY BOUGHTON,
PETER HAIBRECHTSE, TIM
HAINES, LT. TOM, LT. HANFIELD,
LT. BOISEN, LT. PRIMMER, ELLEN
RAY, J. SHANNON-SHARPE, TROY
HERNIANS, J. SWEENEY, D.
GARDNER, LEBEUS BROWN,
LYNDA SCHWARDT, KEVIN CARR,
PAUL KEMPER, JASON ALDANA,
and WISCONSIN DEPARTMENT OF
CORRECTIONS,

Defendants.

Case No. 20-CV-1593-JPS

ORDER

On October 19, 2020, Plaintiff, a prisoner proceeding pro se, filed a complaint alleging that his civil rights were violated. ECF No. 1. He also filed a motion for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, as well as his prisoner trust account statement. ECF Nos. 3, 6. The Court ordered Plaintiff to pay a \$1.71 initial partial filing fee, which the Court subsequently waived at Plaintiff's request. *See* ECF Nos. 7, 8. On August 10, 2021, the Court screened Plaintiff's complaint, determined that it did not state a claim, and afforded Plaintiff leave to amend the complaint. ECF No. 9. The Court warned that if Plaintiff failed to submit an amended complaint on or before September 10, 2021, the Court would dismiss the action for failure to state a claim in the original complaint and issue him a

"strike" under 28 U.S.C. § 1915(g). *Id.* Plaintiff sought an extension of time, ECF No. 10, which the Court granted in an order requiring Plaintiff to submit an amended complaint on or before March 21, 2022, ECF No. 11. The Court warned Plaintiff that failure to comply with that order would result in the dismissal of his case without further notice. *Id.* The March 21, 2022 date has come and gone without a word from Plaintiff. As the Court previously warned, and being left to evaluate only the complaint, the Court will dismiss the case without prejudice for failure to state a claim and will issue Plaintiff a "strike." ECF No. 9 at 5.

Accordingly,

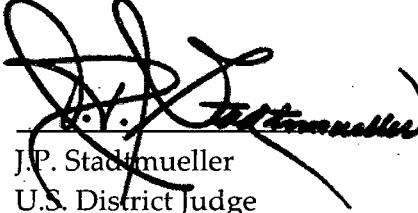
IT IS ORDERED that this action be and the same is hereby **DISMISSED** without prejudice for failure to state a claim; and

IT IS FURTHER ORDERED that the Clerk of Court document that this inmate has incurred a "strike" under 28 U.S.C. § 1915(g).

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 27th day of April, 2022.

BY THE COURT:


J.P. Stadtmueller
U.S. District Judge

10

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TITUS HENDERSON,

Plaintiff,

v.

Case No. 20-CV-1593-JPS

WARDEN GARY BOUGHTON,
PETER HAILBRECHTSE, TIM
HAINES, LT. TOM, LT. HANFIELD,
LT. BOISEN, LT. PRIMMER, ELLEN
RAY, J. SHANNON-SHARPE, TROY
HERNIANS, J. SWEENEY, D.
GARDNER, LEBEUS BROWN,
LYNDA SCHWARDT, KEVIN CARR,
PAUL KEMPER, JASON ALDANA,
and WISCONSIN DEPARTMENT OF
CORRECTIONS,

ORDER

Defendants.

Plaintiff Titus Henderson, an inmate confined at Green Bay Correctional Institution, filed a *pro se* complaint under 42 U.S.C. § 1983 alleging that the Defendants violated his constitutional rights. (Docket #1). This order resolves Plaintiff's motion for leave to proceed without prepaying the filing fee, motion to waive the filing fee, and screens his complaint.

**1. MOTION FOR LEAVE TO PROCEED WITHOUT PREPAYING
THE FILING FEE**

The Prison Litigation Reform Act ("PLRA") applies to this case because Plaintiff was a prisoner when he filed his complaint. *See* 28 U.S.C. § 1915(h). The PLRA allows the Court to give a prisoner plaintiff the ability to proceed with his case without prepaying the civil case filing fee. 28 U.S.C.

§ 1915(a)(2). When funds exist, the prisoner must pay an initial partial filing fee. 28 U.S.C. § 1915(b)(1). He must then pay the balance of the \$350 filing fee over time, through deductions from his prisoner account. *Id.*

On January 13, 2021, the Court ordered Plaintiff to pay an initial partial filing fee of \$1.71. (Docket #7). On February 8, 2021, Plaintiff moved to waive that fee. (Docket #8). Plaintiff asserts that he has no funds to pay the filing fee. (*Id.*) The Court concludes that Plaintiff does not have any funds available to pay the initial partial filing fee. Accordingly, the Court will grant Plaintiff's motion to waive the initial partial filing fee. (Docket #8). Further, the Court will grant Plaintiff's motion for leave to proceed without prepayment of the filing fee. (Docket #6). Plaintiff must pay the remainder of the filing fee over time in the manner explained at the end of this Order.

2. SCREENING THE COMPLAINT

2.1 Federal Screening Standard

Under the PLRA, the Court must screen complaints brought by prisoners seeking relief from a governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint if the prisoner raises claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

In determining whether the complaint states a claim, the Court applies the same standard that applies to dismissals under Federal Rule of Civil Procedure 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017) (citing *Booker-El v. Superintendent, Ind. State Prison*, 668 F.3d 896, 899 (7th Cir. 2012)). To state a claim, a complaint must include "a short and plain

statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). The complaint must contain enough facts, accepted as true, to “state a claim for relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows a court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556).

To state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that someone deprived him of a right secured by the Constitution or the laws of the United States, and that whoever deprived him of this right was acting under the color of state law. *D.S. v. E. Porter Cty. Sch. Corp.*, 799 F.3d 793, 798 (7th Cir. 2015) (citing *Buchanan-Moore v. Cty. of Milwaukee*, 570 F.3d 824, 827 (7th Cir. 2009)). The Court construes *pro se* complaints liberally and holds them to a less stringent standard than pleadings drafted by lawyers. *Cesal*, 851 F.3d at 720 (citing *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015)).

2.2 Plaintiff’s Allegations

Plaintiff’s 65-page complaint names 18 Defendants and alleges incidents that span from 2002 to 2015. (Docket #1). It appears that Plaintiff is attempting to bring a Fourteenth Amendment Due Process violation claim for most of the conduct report hearings he has gone through since 2002. (*Id.*) Plaintiff provides a date he was given a conduct report, lists a group of Defendants, states that he was denied his Due Process rights, provides the result of the hearing, and states that he exhausted his administrative remedies. (*Id.*) Plaintiff does not, however, provide any specific details regarding each Defendant’s role in the alleged violation.

2.3 Analysis

Upon review of the complaint, the Court finds that Plaintiff is attempting to improperly bring unrelated claims in a single case, and his allegations against Defendants are conclusory in nature. Thus, the complaint violates Federal Rule of Civil Procedure 18 and 20.

Under the controlling principle of Federal Rule of Civil Procedure 18(a), “[u]nrelated claims against different defendants belong in different suits” so as to prevent prisoners from dodging the fee-payment or three strikes provisions of the Prison Litigation Reform Act. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). “A party asserting a claim, counterclaim, crossclaim, or third-party claim may join, as independent or alternate claims, as many claims as it has against an opposing party.” Fed. R. Civ. P. 18(a). Under this rule, “multiple claims against a single party are fine, but Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2.” *George*, 507 F.3d at 607. Moreover, joinder of multiple defendants into one action is proper only if “any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and any question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P. 20(a)(2).

The Seventh Circuit has instructed courts to reject a complaint that violates Rules 18 and 20 “either by severing the action into separate lawsuits or by dismissing the improperly joined defendants.” *Owens v. Hinsley*, 635 F.3d 950, 952 (7th Cir. 2011) (citing Fed. R. Civ. P. 21). However, Plaintiff’s complaint fails to state a claim as it is written. There are no claims that can be severed because the claims do not contain enough information regarding

the actions or lack of action of the Defendants. Therefore, the Court will dismiss the original complaint submitted on October 19, 2020.

The Court will allow Plaintiff an opportunity to file an amended complaint, which cures the deficiencies of the original complaint described herein. Plaintiff's amended complaint does not need to be long or contain legal language or citations to statutes or cases, but it must provide the Court and each Defendant with notice of what each Defendant allegedly did or did not do to violate Plaintiff's rights. An amended complaint must be filed on or before **September 10, 2021**. If Plaintiff does not file an amended complaint by the deadline, the Court will dismiss this case based on his failure to state a claim in his original complaint and will issue him a "strike" under 28 U.S.C. § 1915(g).

The Court is enclosing a copy of its complaint form and instructions. Plaintiff must list all the Defendants in the caption of his amended complaint. He should use the spaces on pages two and three to allege the key facts that give rise to the claims he wishes to bring, and to describe which Defendants he believes committed the violations that relate to each claim. If the space is not enough, Plaintiff may use up to five additional sheets of paper.

Plaintiff is advised that the amended complaint must bear the docket number assigned to this case and must be labeled "Amended Complaint." The amended complaint supersedes the prior complaint and must be complete in itself without reference to the original complaint. *See Duda v. Bd. of Educ. of Franklin Park Pub. Sch. Dist. No. 84*, 133 F.3d 1054, 1056 (7th Cir. 1998). In *Duda*, the appellate court emphasized that in such instances, the "prior pleading is in effect withdrawn as to all matters not restated in the amended pleading." *Id.* at 1057 (citation omitted). If the amended

complaint is received, it will become the operative complaint in this action, and the Court will screen it in accordance with 28 U.S.C. § 1915A.

3. CONCLUSION

Accordingly,

IT IS ORDERED that Plaintiff's motion for leave to proceed without prepaying the filing fee (Docket #6) be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that Plaintiff's motion to waive initial partial filing fee (Docket #8) be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that the complaint fails to state a claim;

IT IS FURTHER ORDERED that Plaintiff may file an amended complaint that complies with the instructions in this order on or before **September 10, 2021**. If Plaintiff files an amended complaint by the deadline, the Court will screen the amended complaint under 28 U.S.C. § 1915A. If Plaintiff does not file an amended complaint by the deadline, the Court will dismiss this case based on his failure to state a claim in his original complaint and will issue him a "strike" under 28 U.S.C. § 1915(g);

IT IS FURTHER ORDERED that the Clerk's Office mail Plaintiff a blank prisoner complaint form and a copy of the guides entitled "Answers to Prisoner Litigants' Common Questions" and "Answers to Pro Se Litigants' Common Questions," along with this order;

IT IS FURTHER ORDERED that the agency having custody of Plaintiff shall collect from his institution trust account the \$350.00 balance of the filing fee by collecting monthly payments from Plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to Plaintiff's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the

case name and number assigned to this case. If Plaintiff is transferred to another county, state, or federal institution, the transferring institution shall forward a copy of this order along with his remaining balance to the receiving institution;

IT IS FURTHER ORDERED that a copy of this order be sent to the officer in charge of the agency where Plaintiff is confined; and

IT IS FURTHER ORDERED that plaintiffs who are inmates at Prisoner E-Filing Program institutions¹ must submit all correspondence and case filings to institution staff, who will scan and e-mail documents to the court. Plaintiffs who are inmates at all other prison facilities must submit the original document for each filing to the court to the following address:

Office of the Clerk
United States District Court
Eastern District of Wisconsin
362 United States Courthouse
517 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

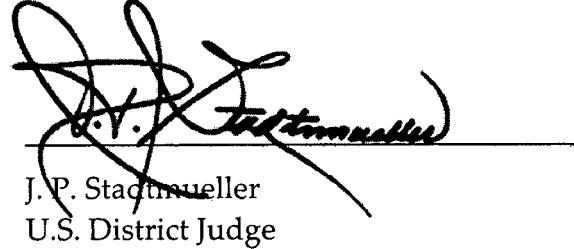
PLEASE DO NOT MAIL ANYTHING DIRECTLY TO THE JUDGE'S CHAMBERS. It will only delay the processing of the matter.

Plaintiff is further advised that failure to make a timely submission may result in the dismissal of this case for failure to diligently pursue it. In addition, the parties must notify the Clerk of Court of any change of address. Failure to do so could result in orders or other information not being timely delivered, thus affecting the legal rights of the parties.

¹The Prisoner E-Filing Program is mandatory for all inmates of Columbia Correctional Institution, Dodge Correctional Institution, Green Bay Correctional Institution, Oshkosh Correctional Institution, Waupun Correctional Institution, and Wisconsin Secure Program Facility.

Dated at Milwaukee, Wisconsin, this 10th day of August, 2021.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TITUS HENDERSON,

Plaintiff,

v.

WARDEN GARY BOUGHTON,
PETER HAIBREGTSE, TIM
HAINES, LT. TOM, LT. HANFIELD,
LT. BOISEN, LT. PRIMMER, ELLEN
RAY, J. SHANNON-SHARPE, TROY
HERNIANS, J. SWEENEY, D.
GARDNER, LEBEUS BROWN,
LYNDA SCHWARDT, KEVIN CARR,
PAUL KEMPER, JASON ALDANA,
and WISCONSIN DEPARTMENT OF
CORRECTIONS,

Defendants.

Case No. 20-CV-1593-JPS

ORDER

On August 10, 2021, the Court screened Plaintiff's complaint, held that it violated Federal Rules of Civil Procedure 18 and 20, and ordered Plaintiff to submit an amended complaint by September 10, 2021. ECF No. 9. On September 8, 2021, Plaintiff filed a motion for an extension of time in which to submit an amended complaint. ECF No. 10. On February 18, 2022, the Court granted Plaintiff's motion for an extension and provided Plaintiff an opportunity to file an amended complaint by March 21, 2022. ECF No. 12. That order specifically warned Plaintiff that the failure to comply with the deadline would result in the Court dismissing Plaintiff's case without further notice. *Id.* at 2.

Plaintiff did not file an amended complaint. On April 27, 2022, the Court therefore dismissed the case, with prejudice, for the failure to state a claim and entered judgment accordingly. ECF Nos. 12, 13. On May 4, 2022, Plaintiff filed a motion for reconsideration of the dismissal. ECF No. 14.

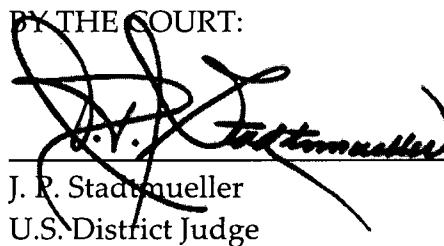
The Court will deny Plaintiff's motion. Plaintiff indicates that the Court did not mail Plaintiff a copy of the order requiring him to file an amended complaint. The docket in this case, however, indicates the opposite and that the Clerk sent Plaintiff a copy of the order via mail. ECF No. 11. Further, Plaintiff's amended complaint was originally due on September 10, 2021; and Plaintiff had yet to file any amended complaint when the Court dismissed the case over six months after that deadline had passed. Plaintiff had an obligation to comply with all Court orders and he failed to do so. As such, the Court is obliged to deny Plaintiff's motion for reconsideration.

Accordingly,

IT IS ORDERED that Plaintiff's motion for reconsideration, ECF No. 14, be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 23rd day of August, 2022.

BY THE COURT:


J. P. Stadtmueller
U.S. District Judge

UNITED STATES SUPREME COURT

Titus Henderson, Petitioner

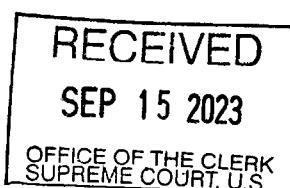
v.

Gary Baughton, et al.
Respondents

PETITIONER'S MOTION TO
TO TIMELY FILE WRIT
OF CERTIORARI
U.S. SUP. Ct. R. 29.2

I, Titus Henderson, Pro-Se, hereby declare under penalty of perjury per. 28 U.S.C.S 1746, that following statements are true and correct, based upon my own personal knowledge:

- 1) July 4, 2023, I placed two (2) large brown envelopes in Unit 5 of Weisner hand to place in U.S. Postage



Mailbox in Green Bay Corr. Inst. to be
delivered to:

Exh. A: Is a true & correct copy of
Disbursement charging \$3.27 for
Petition to U.S. Supreme Ct. 7-4-23.

Exh. B: Is a true & correct copy of
Disbursement charging \$2.31 for
Petition to U.S. Solicitor Gen. 7-4-23.

Due to Emergency Lockdown (No
Operations), both envelopes were
open and searched, read and put
in prison U.S. Mailbox for delivery
by Capt. Cushing on 7-28-23.

Petitioner Henderson never had
possession of Petition after
7-4-23.

"Proof of Service" set forth Petition
was mailed "7-4-23 at 7:00 pm"
by prepaid U.S. Postage to U.S.
Supreme Ct. and Solicitor Gen'l.

2.

U.S. Supreme Ct. Rule 29, 2 Stats.
'Pro-Se Petition by inmate is filed
date of Proof of Service'. See
Houston v. Lack, 487 U.S. 266, 273-
76, 108 S. Ct. 2379 (1988)

See Exh. C

Murray v. Carrier, 477 U.S. 478, 106 S.
Ct. 2639 (1986)

I, Pro-Se Petitioner Titus Henderson,
declare under penalty of Perjury
28 U.S.C. § 1746, that above statements
are true & correct based upon my own
personal knowledge.

Direct Petition for Writ to a Judge.

Date: 8-16-23. Respectfully By/

CC: U.S. Sol.

Gen.

Mail on

8-16-23

Titus Henderson 299317

GBCI-RHM

P.O. Box 19033

Green Bay, WI

54307

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nal mail system on or before the last day for filing and is accompanied by a notarized statement or declaration in compliance with 28 U. S. C. § 1746 setting out the date of deposit and stating that first-class postage has been prepaid. If the postmark is missing or not legible, or if the third-party commercial carrier does not provide the date the document was received by the carrier, the Clerk will require the person who sent the document to submit a notarized statement or declaration in compliance with 28 U. S. C. § 1746 setting out the details of the filing and stating that the filing took place on a particular date within the permitted time.

3. Any document required by these Rules to be served may be served personally, by mail, or by third-party commercial carrier for delivery within 3 calendar days on each party to the proceeding at or before the time of filing. If the document has been prepared as required by Rule 33.1, three copies shall be served on each other party separately represented in the proceeding. If the document has been prepared as required by Rule 33.2, service of a single copy on each other separately represented party suffices. If personal service is made, it shall consist of delivery at the office of the counsel of record, either to counsel or to an employee therein. If service is by mail or third-party commercial carrier, it shall consist of depositing the document with the United States Postal Service, with no less than first-class postage prepaid, or delivery to the carrier for delivery within 3 calendar days, addressed to counsel of record at the proper address. When a party is not represented by counsel, service shall be made on the party, personally, by mail, or by commercial carrier. Ordinarily, service on a party must be by a manner at least as expeditious as the manner used to file the document with the Court. An electronic version of the document shall also be transmitted to all other parties at the time of filing or reasonably contemporaneous therewith, unless the party filing the document is proceeding *pro se* and *in forma pauperis* or the electronic service address of the party being served is unknown and not identifiable through reasonable efforts.

not done, the Clerk will notify counsel to remove the articles forthwith. If they are not removed within a reasonable time thereafter, the Clerk will destroy them or dispose of them in any other appropriate way.

3. Any party or *amicus curiae* desiring to lodge non-record material with the Clerk must set out in a letter, served on all parties, a description of the material proposed for lodging and the reasons why the non-record material may properly be considered by the Court. The material proposed for lodging may not be submitted until and unless requested by the Clerk.

Rule 33. Document Preparation: Booklet Format; 8 $\frac{1}{2}$ - by 11-Inch Paper Format

1. *Booklet Format:* (a) Except for a document expressly permitted by these Rules to be submitted on 8 $\frac{1}{2}$ - by 11-inch paper, see, *e. g.*, Rules 21, 22, and 39, every document filed with the Court shall be prepared in a 6 $\frac{1}{8}$ - by 9 $\frac{1}{4}$ -inch booklet format using a standard typesetting process (*e. g.*, hot metal, photocomposition, or computer typesetting) to produce text printed in typographic (as opposed to typewriter) characters. The process used must produce a clear, black image on white paper. The text must be reproduced with a clarity that equals or exceeds the output of a laser printer.

(b) The text of every booklet-format document, including any appendix thereto, shall be typeset in a Century family (*e. g.*, Century Expanded, New Century Schoolbook, or Century Schoolbook) 12-point type with 2-point or more leading between lines. Quotations in excess of 50 words shall be indented. The typeface of footnotes shall be 10-point type with 2-point or more leading between lines. The text of the document must appear on both sides of the page.

(c) Every booklet-format document shall be produced on paper that is opaque, unglazed, and not less than 60 pounds in weight, and shall have margins of at least three-fourths of an inch on all sides. The text field, including footnotes, may not exceed 4 $\frac{1}{8}$ by 7 $\frac{1}{8}$ inches. The document shall be bound firmly in at least two places along the left margin (saddle

stitch or perfect binding preferred) so as to permit easy opening, and no part of the text should be obscured by the binding. Spiral, plastic, metal, or string bindings may not be used. Copies of patent documents, except opinions, may be duplicated in such size as is necessary in a separate appendix.

(d) Every booklet-format document shall comply with the word limits shown on the chart in subparagraph 1(g) of this Rule. The word limits do not include the questions presented, the list of parties and the corporate disclosure statement, the table of contents, the table of cited authorities, the listing of counsel at the end of the document, or any appendix. The word limits include footnotes. Verbatim quotations required under Rule 14.1(f) and Rule 24.1(f), if set out in the text of a brief rather than in the appendix, are also excluded. For good cause, the Court or a Justice may grant leave to file a document in excess of the word limits, but application for such leave is not favored. An application to exceed word limits shall comply with Rule 22 and must be received by the Clerk at least 15 days before the filing date of the document in question, except in the most extraordinary circumstances.

(e) Every booklet-format document shall have a suitable cover consisting of 65-pound weight paper in the color indicated on the chart in subparagraph 1(g) of this Rule. If a separate appendix to any document is filed, the color of its cover shall be the same as that of the cover of the document it supports. The Clerk will furnish a color chart upon request. Counsel shall ensure that there is adequate contrast between the printing and the color of the cover. A document filed by the United States, or by any other federal party represented by the Solicitor General, shall have a gray cover. A joint appendix, answer to a bill of complaint, motion for leave to intervene, and any other document not listed in subparagraph 1(g) of this Rule shall have a tan cover.

(f) Forty copies of a booklet-format document shall be filed, and one unbound copy of the document on 8½- by 11-inch paper shall also be submitted.

5. Regardless of the number of counsel participating in oral argument, counsel making the opening argument shall present the case fairly and completely and not reserve points of substance for rebuttal.

6. Oral argument will not be allowed on behalf of any party for whom a brief has not been filed.

7. By leave of the Court, and subject to paragraph 4 of this Rule, counsel for an *amicus curiae* whose brief has been filed as provided in Rule 37 may argue orally on the side of a party, with the consent of that party. In the absence of consent, counsel for an *amicus curiae* may seek leave of the Court to argue orally by a motion setting out specifically and concisely why oral argument would provide assistance to the Court not otherwise available. Such a motion will be granted only in the most extraordinary circumstances.

8. Oral arguments may be presented only by members of the Bar of this Court. Attorneys who are not members of the Bar of this Court may make a motion to argue *pro hac vice* under the provisions of Rule 6.

PART VII. PRACTICE AND PROCEDURE

Rule 29. Filing and Service of Documents; Special Notifications; Corporate Listing

1. Any document required or permitted to be presented to the Court or to a Justice shall be filed with the Clerk in paper form.

2. A document is timely filed if it is received by the Clerk in paper form within the time specified for filing; or if it is sent to the Clerk through the United States Postal Service by first-class mail (including express or priority mail), postage prepaid, and bears a postmark, other than a commercial postage meter label, showing that the document was mailed on or before the last day for filing; or if it is delivered on or before the last day for filing to a third-party commercial carrier for delivery to the Clerk within 3 calendar days. If submitted by an inmate confined in an institution, a document is timely filed if it is deposited in the institution's inter-

For Me = Inmate



WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Kevin A. Carr

Green Bay Correctional Institution

Date: July 25, 2023

To: GBCI Staff and Persons in Our Care

From: Christopher Stevens, Warden
Green Bay Correctional Institution

RE: Suspension of Administrative Rules

Effective immediately, I am suspending the administrative rules pursuant to Wisconsin Administrative Code DOC 306.22.

DOC 306.22 Emergency

(1) If an emergency occurs that prevents the normal functioning of the institution, the warden may suspend the administrative rules of the department or any parts of them, except ss. DOC 306.07 to 306.09, until the emergency is ended and order is restored to the institution.

The purpose of this suspension of administrative rules is strictly precautionary. Some conditions exist that warrant the suspension of rules in areas of GBCI. Maintaining the safety, health and well-being of staff and persons in our care is our priority.

We will be evaluating this suspension on a regular basis as we try to resume and maintain some normal operations, when we can do so safely.

cc: Sarah Cooper, DAI Administrator
Stephanie Hove, DAI Assistant Administrator
Paul Kemper, DAI Assistant Administrator



WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Kevin A. Carr

Green Bay Correctional Institution

Date: July 25, 2023

To: GBCI Staff and Persons in Our Care

From: Christopher Stevens, Warden 
Green Bay Correctional Institution

RE: Administrative Rule Suspension Rescission

On April 24, 2020, Warden Dylon Radtke suspended DOC administrative rules to prevent the spread of COVID-19 at Green Bay Correctional Institution. Effective today, I am rescinding the 4/24/2020 administrative rule suspension.

Presently, DOC manages COVID through other mitigation strategies which no longer require a suspension of DOC administrative rules.

cc: Sarah Cooper, DAI Administrator
Stephanie Hove, DAI Assistant Administrator
Paul Kemper, DAI Assistant Administrator

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

August 10, 2023

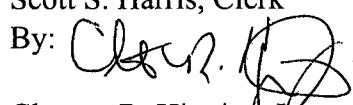
Titus Henderson
#299317
PO Box 19033
Green Bay, WI 54307

RE: Henderson v. Boughton, et al.
USAP7 No. 22-2728

Dear Mr. Henderson:

The above-entitled petition for a writ of certiorari was postmarked July 31, 2023 and received August 9, 2023. The papers are returned for the following reason(s):

The petition is out-of-time. The date of the lower court judgment or order denying a timely petition for rehearing was April 7, 2023. Therefore, the petition was due on or before July 6, 2023. Rules 13.1, 29.2 and 30.1. When the time to file a petition for a writ of certiorari in a civil case (habeas action included) has expired, the Court no longer has the power to review the petition.

Sincerely,
Scott S. Harris, Clerk
By: 
Clayton R. Higgins, Jr.
(202) 479-3019

*Submit Petition to Judge
to determine Timelines*

Enclosures

Silva-Lewis, Zoraida M - DOC

From: ecfmaster@wied.uscourts.gov
Sent: Wednesday, May 4, 2022 10:18 AM
To: ecfmaster@wied.uscourts.gov
Subject: Activity in Case 2:20-cv-01593-JPS Henderson v. Boughton et al Motion for Reconsideration

**CAUTION: This email originated from outside the organization.
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This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

United States District Court

Eastern District of Wisconsin

Notice of Electronic Filing

The following transaction was entered on 05/04/2022 at 10:13:35 AM CDT and filed on 05/04/2022

Case Name: Henderson v. Boughton et al

Case Number: 2:20-cv-01593-JPS

Filer: Titus Henderson

WARNING: CASE CLOSED on 04/27/2022

Document Number: 14

Docket Text:

MOTION for Reconsideration by Titus Henderson. (lh) (Additional attachment(s) added on 5/4/2022: # (1) Bookmarked Exhibits A,B,C) (lh).

2:20-cv-01593-JPS Notice has been electronically mailed to:

Wisconsin Dept of Justice - 1983 Actions DLSFedOrdersEastCL@doj.state.wi.us, clarkdm@doj.state.wi.us

2:20-cv-01593-JPS Notice has been delivered by other means to:

Titus Henderson
299317
Green Bay Correctional Institution
PO Box 19033
Green Bay, WI 54307-9033

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Titus Henderson,
Plaintiff,

E.D.Wis. #20-cv-1593

v.

Warden Gary Boughton, et al.
Defendants

MOTION FOR RECONSIDERATION AND
GRANT AMENDED COMPLAINT

Pro-se Plaintiff Titus Henderson, hereby Submit Motion for Reconsideration & Grant Amended Complaint based on following reasons:

- 1.) Exh. #A: Plt. Henderson filed Motion for Extension of Time to file Amended Complaint Sept. 5, 2021.
- 2.) Judge Stadtmauer erroneously issued ORDER to dismiss action, April 27, 2022.

First, Clerk Gina Colletti did not issue alleged "Paper Order" to Plt. Henderson by U.S. Mail. Order was issued by Electric Court Filing (ECF); which DO NOT issue to prisoners. Eastern District postage Log (Mail) and Green Bay Prison Mail Log, show "No" order granting Motion

For Extension Of Time being delivered to Plaintiff Henderson between Sept. 10, 2021 ~ thru ~ March 21, 2022.

- What Date did Court issue Order Granting Motion To File Amended Complaint? ECF #11?
- What Date did Clerk Mail Order to Plaintiff?

* ECF and Clerk Mail Log show Clerk Sent Plaintiff Henderson Court Order Granting Motion To File Amended Complaint Feb. 18, 2022 for case: Henderson v. Aldana, et al., #20-cv-555-JPS ECF #11. See Exh. # B

March 21, 2022, Prison Librarian E-Filed Amended Complaint. Exh. C

U.S. Supreme Ct. + 7th Circuit held Clerk must prove Notice was sent to Plt. Henderson to file Amended Complaint by March 21, 2022 by U.S. Postal to Green Bay Prison before dismissing action. See Larry Dusenberry v. U.S., 534 U.S. 161, at 167 ; 122 S. Ct. 691, 699 (2001).

It's simple. Plt. Henderson DID NOT receive Court Order (ECF #11) at no time from Sept. 9, 2021 ~ thru ~ March 21, 2022.

CONCLUSION

Based upon above reasons, Plaintiff Henderson request the Court to reconsider Dismissal and grant thirty (30) days to file Amended Complaint on or before June 10, 2022, because Plaintiff did not receive Notice of Order (ECF # 11).

Dated: May 3, 2022

Respectfully Submitted By:

Titus Henderson
GBCI
P.O. Box 19033
Green Bay, WI
54307

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Silva-Lewis, Zoraida M - DOC

From: ecfmaster@wied.uscourts.gov
Sent: Wednesday, October 19, 2022 9:04 AM
To: ecfmaster@wied.uscourts.gov
Subject: Activity in Case 2:20-cv-01593-JPS Henderson v. Boughton et al Notice of Appeal
Prisoner

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NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

United States District Court

Eastern District of Wisconsin

Notice of Electronic Filing

The following transaction was entered on 10/19/2022 at 09:01:55 AM CDT and filed on 10/19/2022

Case Name: Henderson v. Boughton et al

Case Number: 2:20-cv-01593-JPS

Filer: Titus Henderson

WARNING: CASE CLOSED on 04/27/2022

Document Number: 20

Docket Text:

NOTICE OF APPEAL by Titus Henderson from USDC re: [12] Order Dismissing Case, [13] Judgment, dated 9/1/2022. Newlin Notice to be sent by 12/16/2022. (Attachment(s): # (1) Copy of [12] Order) (cc: all counsel)(mac).

2:20-cv-01593-JPS Notice has been electronically mailed to:

Wisconsin Dept of Justice - 1983 Actions DLSFedOrdersEastCL@doj.state.wi.us, clarkdm@doj.state.wi.us

2:20-cv-01593-JPS Notice has been delivered by other means to:

Titus Henderson
299317
Green Bay Correctional Institution

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Titus Henderson

Appellant-Plaintiff

v.

7th Cir, App,

E.D.Wis. #20-cv-1593-JPS

Gary Boughton, et al.

Respondent-Defendants

NOTICE OF APPEAL

Pro-se Plaintiff Titus Henderson, hereby give
Notice of Appeal that Plaintiff Titus Henderson
appeal Dismissal of Civil Action at Screening
Stage for failure to State a Claim, in United
States District Court, Eastern District Wisconsin,
by Judge J.P. Stadtmauer.

September 1, 2021

By:


Titus Henderson 299317

6BCI

P.O. Box 19033

Green Bay, WI 54307

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT



Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

December 14, 2022

By the Court:

	TITUS HENDERSON, Plaintiff - Appellant
No. 22-2728	v.
	GARY BOUGHTON, et al., Defendants - Appellees

Originating Case Information:

District Court No: 2:20-cv-01593-JPS
Eastern District of Wisconsin
District Judge J. P. Stadtmueller

The following is before the court: **MOTION FOR APPOINTMENT OF COUNSEL AND EXTENSION OF TIME TO FILE OBJECTION**, filed on December 13, 2022, by the pro se appellant.

This appeal is subject to the Prison Litigation Reform Act and therefore all proceedings are suspended pending the assessment and payment of any necessary fees. *See Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). A review of the docket shows that on October 27, 2022, the district court denied the appellant's motion for leave to proceed on appeal in forma pauperis. Accordingly,

IT IS ORDERED that the motion for appointment of counsel is **DENIED** without court action, pursuant to the court's fee notice and order dated September 28, 2022.

IT IS FURTHER ORDERED that the motion for extension of time is **GRANTED** to the extent that the appellant shall either pay the \$505.00 appellate filing fees in the district court or file a motion for leave to proceed on appeal in forma pauperis and PLRA memorandum in support with the clerk of this court by January 13, 2023. The clerk shall send the appellant an asset affidavit form.

IT IS ALSO FURTHER ORDERED that the appellant's overdue Circuit Rule 3(c) docketing statement is due by December 28, 2022.

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