

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SERGIO BUTLER, MICHAEL EVANS,)
BAO NGUYEN, JESSE DYER,)
BRENT ABBINK, MIGUEL ALVAREZ,)

Plaintiffs,)

8:14CV306

v.)

LANCASTER COUNTY DEPT OF)
CORRECTIONS and LANCASTER)
COUNTY,)

MEMORANDUM AND ORDER

Defendants.)
_____)

This matter is before the Court on several documents filed by plaintiffs in response to the Court's order dated October 29, 2014. The Court provided each non-lead plaintiff¹ -- Michael Evans, Bao Nguyen, Jesse Dyer, Brent Abbink, and Miguel Alvarez -- with an opportunity to "opt out" of this group litigation by so advising the court in writing. Each non-lead plaintiff was warned that failure to respond to the Court's order would obligate him to pay the full filing fee and would result in his dismissal from this action for want of prosecution. (See Filing No. [37](#).)

Evans responded by requesting that he be allowed to continue in this group litigation. He also notified the Court

¹ The Court designated Sergio Butler as the lead plaintiff in this case.

that, as of November 4, 2014, he would no longer be incarcerated (Filing No. [42](#)). The Court will allow Evans to remain a plaintiff in this action. However, he is again warned that any proposed amended complaint or other document filed on behalf of multiple plaintiffs must be signed by *each of the plaintiffs*. Future group motions or pleadings that do not comply with this requirement will be stricken from the record pursuant to Rule 11(a) of the Federal Rules of Civil Procedure. The Court will enter a separate order in this case on Evans's request to proceed in forma pauperis in this matter.

Nguyen and Dyer responded by requesting to be dismissed from this group litigation (Filing Nos. [41](#) and [43](#)). As they were advised, they will be dismissed from this action and will not be required to pay the filing fee in this matter.

Abbink and Alvarez did not respond to the Court's order, despite having ample time to do so. As they were advised, each of them will be required to pay the \$350.00 filing fee for having initiated this action, and each of them will be dismissed from this case.

IT IS ORDERED:

1) Butler and Evans are the only remaining plaintiffs in this matter. The Court will enter separate orders in this case on their requests for leave to proceed in forma pauperis.

2) Nguyen and Dyer are dismissed from this action without prejudice. They will not be required to pay the filing fee for this action. The clerk's office is directed to send a copy of this order to the financial officer at the Lancaster County Jail. Nguyen and Dyer's requests to proceed in forma pauperis (Filing Nos. [19](#) and [31](#)) are denied as moot.

3) Abbink and Alvarez are dismissed from this action without prejudice for want of prosecution and for failure to comply with an order from this Court. Abbink and Alvarez each incurred the obligation to pay the \$350.00 filing fee for this action when they declined the opportunity to voluntarily withdraw from the case. Abbink and Alvarez's requests to proceed in forma pauperis (Filing Nos. [26](#) and [28](#)) are denied as moot.

DATED this 3rd day of December, 2014.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court

* This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the Court has no agreements with any of these third parties or their Web sites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.