

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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ALVES, et. al.	:	Hon. Dennis M. Cavanaugh
	:	
Plaintiffs,	:	OPINION
	:	
v.	:	Civil Action No. 01-CV-0789 (DMC) (MF)
	:	(Consolidated)
FERGUSON, et. al.	:	
	:	
Defendants.	:	
_____	:	

DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon motion by a number of residents of the Department of Corrections Special Treatment Unit facility in Kearney, N.J. (“Movants”) for leave to file an amicus curiae motion/brief. Although fashioned as an “amicus” filing, the submission is essentially a consolidated pro se application for an injunction and/or a temporary restraining order. Movants ostensibly seek to prevent Defendants from transferring residents of the Special Treatment Unit (“STU”) to a new location prior to a review of any such facility by a court-appointed representative.

A request for an injunction and/or temporary restraints was previously filed by a number of pro se litigants in this case on December 8, 2008. On August 4, 2009, this Court declined to grant said relief, and observed that district courts need not consider pro se submissions by parties that are represented by counsel. See U.S. v. D’Amario, No. 08-4735, 2009 U.S. App. LEXIS 9315, at *3 (3d Cir. Apr. 30, 2009) (unpublished) (citing McKaskle v. Wiggins, 465 U.S. 168, 183 (1984)); United States v. Vampire Nation, 451 F.3d 189, 207 n.17 (3d Cir. Pa. 2006). As noted in the submission here, Movants are represented by

counsel in these consolidated actions, which include a putative class action on behalf of all STU residents.¹ Additionally, all STU residents share identical interests with the represented parties. Accordingly, the Court will not consider the pro se motion.

Moreover, if—as Movants suggest—their motion was treated as an amicus filing, it is entirely within the Court’s discretion whether to consider the submission.² Under the facts of this case, the Court finds that it would be inappropriate to entertain Movants’ motion.

For the reasons stated, Movants’ motion is denied.

S/ Dennis M. Cavanaugh
Dennis M. Cavanaugh, U.S.D.J.

Date: November 5, 2009
Orig.: Clerk’s Office
cc: All Counsel of Record
The Honorable Mark Falk, U.S.M.J.
File

¹ See Movants’ Motion at 4; Movants’ Brief in Support of Motion at 6.

² Wortham v. KarstadtQuelle AG, 2005 U.S. App. LEXIS 22715 at *21 (3d Cir. Oct. 20, 2005) (unpublished); United States v. Alkaabi, 223 F. Supp. 2d 583, 592 (D.N.J. 2002).