

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

LUIS VASQUEZ, DAVID GREENWOOD,
JAVIER SALAZAR, JULIAN LOPEZ
and ANTHONY RIACH,

Plaintiffs,

v.

DANIEL BRAEMER, DON STRAHOTA,
WILLIAM POLLARD, PAMELA ZANK,
JEFFREY GARBELMAN, MICHAEL THURMER
and GARY ANKARLO,

Defendants.

ORDER

11-cv-806-bbc

This is a group action brought by plaintiffs Luis Vasquez, David Greenwood, Javier Salazar, Julian Lopez and Anthony Riach, inmates at the Waupun Correctional Institution. They contend that several employees at the prison violated their constitutional rights. Each plaintiff is proceeding in forma pauperis and has made an initial partial payment. In addition, each plaintiff has notified the court that he understands the consequences of proceeding with this case jointly and that he wishes to do so.

The next step in the case is to screen the complaint under 28 U.S.C. § 1915A to determine whether any portion is legally frivolous, malicious, fails to state a claim upon

which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages. However, it is not clear which complaint should be treated as the operative pleading in this case. Since filing the initial complaint and notifying the court that they wish to proceed jointly, plaintiffs have filed two motions to amend the complaint. First, on January 30, 2011, plaintiff Vasquez filed a motion to amend the complaint in which he crossed out the names of the other plaintiffs, as well as the allegations in the complaint that did not pertain specifically to him. Dkt. ##21, 22. Vasquez's proposed amended complaint suggests that he now wishes to proceed with his claims independently. However, on February 6, 2012, plaintiffs filed a motion to amend the complaint, submitting a complaint with all of the plaintiffs' signatures and claims. Dkt. ##24, 25.

At this stage, it is not clear which complaint should be screened and whether plaintiffs still wish to proceed with this action jointly. Thus, plaintiffs must notify the court whether they still intend to prosecute their claims jointly or whether they wish to initiate their own lawsuits. Specifically, plaintiff Vasquez should explain why he filed an amended complaint with the other plaintiffs' names crossed out. Additionally, plaintiffs Greenwood, Salazar, Lopez and Riach should explain how they wish to proceed with their claims in the event that Vasquez is no longer a plaintiff in this case. Plaintiffs should also specify which complaint should be screened as the operative pleading in the case.

ORDER

IT IS ORDERED that each plaintiff may have until April 3, 2012 to notify the court whether he wishes to prosecute this action jointly or whether he wishes to initiate his own lawsuit.

Entered this 23rd day of March, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge