

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 2, 2006**

Cornelia G. Clark  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2004AP2617**

**Cir. Ct. No. 2003CV2746**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**TODD A. LODHOLZ,**

**PLAINTIFF-APPELLANT,**

**V.**

**KAY HIGGINS, WISCONSIN DEPARTMENT OF  
CORRECTIONS, STEPHEN M. PUCKETT,  
CORRECTIONS CORPORATION OF AMERICA  
AND JOHN DOES AND RECORDS CUSTODIAN,**

**DEFENDANTS-RESPONDENTS.**

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APPEAL from orders of the circuit court for Dane County:  
MARYANN SUMI, Judge. *Affirmed.*

Before Vergeront, Deininger and Higginbotham, JJ.

¶1 PER CURIAM. Todd Lodholz appeals from orders dismissing his complaint against several defendants. We affirm.

¶2 Lodholz's complaint was captioned as a "civil rights complaint under Civil Rights Act, 42 U.S.C. § 1983." It named as defendants the Wisconsin Department of Corrections, Stephen Puckett (a Department employee), Corrections Corporation of America (CCA), Kay Higgins (a CCA employee), and "John Doe" defendants who were involved in the matter. The complaint alleged that Lodholz was transferred from Wisconsin to an Oklahoma institution; that he was serving time for misdemeanor offenses; and that Oklahoma statutes and Wisconsin administrative rules or statutes prohibit transfer of misdemeanants. The complaint alleged that the transfer violated Lodholz's rights to due process and to be free from cruel and unusual punishment. It sought compensatory, punitive, and "exemplary" damages. It is clear from the complaint that Lodholz had been returned to Wisconsin by that time and was not seeking injunctive or writ relief for that purpose. The circuit court dismissed the complaint in two orders, one for the CCA defendants and the other for the Department defendants.

¶3 Lodholz first argues that the court erred by denying his motion for default judgment against the CCA defendants for their failure to timely file an answer. The circuit court concluded that this issue was mooted by its conclusion that the complaint failed to state a claim. Later in this opinion we affirm that the complaint fails to state a claim. Lodholz does not address the circuit court's conclusion that such a failure makes the default judgment issue moot. Therefore, he has not demonstrated that the court erred.

¶4 Lodholz next argues that the court erred by denying his request to hold the Department defendants in default for their failure to respond to his "request for money judgment" within the time the court had set at the pretrial conference for responding to each other's filings. The court denied this motion because it concluded that a request for money judgment is not a document that

required any response from the defendants. On appeal, Lodholz does not directly address this conclusion, but his argument assumes the court's pretrial order required some kind of response to *every* document filed by the other side. The record does not appear to contain the pretrial order, and the transcript of proceedings on the relevant date shows that the pretrial conference portion of the proceedings was held after a motion hearing and was off the record. The circuit court minutes of that date do not show the content of any pretrial order. In the absence of a record, the appellant has not established that the circuit court erred in concluding that no response to Lodholz's request for money judgment was required.

¶5 Lodholz argues that the court erred by concluding that his complaint failed to state a claim. His argument boils down to little more than repeated assertions that because his transfer to Oklahoma was in violation of various state laws, that means his constitutional rights were violated. He cites no legal authority supporting that broad proposition, and we are aware of none. He cites no legal authority showing that a transfer of this type violates his right to due process or to be free from cruel and unusual punishment. Several times he asserts that he had a liberty interest to be incarcerated in Wisconsin rather than elsewhere, but that position has been squarely rejected. *See Berdine v. Sullivan*, 161 F. Supp. 2d 972, 974 (E.D. Wis. 2001). Lodholz has failed to demonstrate that the circuit court erred.

¶6 Having concluded that the complaint was properly dismissed for failure to state a claim, we need not address whether the CCA defendants were properly served.

*By the Court.*—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE  
809.23(1)(b)5.

