

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

JEFFREY M. SCHREIBER,

Petitioner,

ORDER

v.

02-C-350-C

Portage Police Department Officers PETERSON,
TAYLOR, MALCHOW, FEHD and SCOTT;
Columbia County District Attorney JANE
KOHLWAY,

Respondents.

In an order dated July 29, 2002, I denied petitioner Jeffrey Schreiber leave to proceed on claims that defendants violated his rights to due process and equal protection and to petition the government for redress of grievances. Judgment was entered for the defendants that same day. Petitioner has now filed another complaint asserting the same claims but alleging more facts and seeking to name additional defendants. In a letter accompanying the complaint, he writes, "I would like to have the complaint filed as an amended complaint in 02-C-350-C."

"[A] court may grant a plaintiff's motion for leave to amend even after judgment ha[s] been entered." Rodriguez v. United States, 286 F.3d 972, 980 (7th Cir. 2002). However, if "a plaintiff wishes to amend the complaint pursuant to Rule 15(a) following the entry of judgment, he or she may do so only with leave of the court after a motion under Rule 59(e) or Rule 60(b) has been made and the judgment set aside or vacated." Sparrow v. Heller, 116 F.3d 204, 205 (7th Cir. 1997) (internal quotations and

alterations in original omitted).

Plaintiff has not moved to have the judgment set aside. Even if I construed petitioner's letter as a motion under Rule 59 or Rule 60, I still could not grant petitioner leave to amend his complaint. Granting leave to amend would be futile. Therefore, denying amendment is appropriate. Rodriguez, 286 F.3d at 980. Because petitioner's additional allegations do not state a claim, his motion to amend his complaint will be denied.

ORDER

IT IS ORDERED that petitioner Jeffrey Schreiber's motion for leave to amend his complaint is DENIED.

Entered this 24th day of September, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge