

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

VINCENT FAYNE,

Plaintiff,

ORDER

v.

03-C-0215-C

CORRECTIONAL OFFICER WALTER,

Defendant.

In an order entered on May 22, 2003, plaintiff was granted leave to proceed in forma pauperis in this action alleging that defendant Walter used excessive force and denied plaintiff medical care in violation of plaintiff's Eighth Amendment and equal protection rights. Now plaintiff has filed a document titled "Notice of Motion and Motion to Amend Caption and Complaint." In this motion, plaintiff asks for permission to amend his complaint to add as defendants Kyle Davidson, the superintendent of the Prairie du Chien Correctional Facility, and the deputy warden, whose name plaintiff does not know. Plaintiff says that he wants to include these individuals as defendants because he is not sure who ultimately "will be held accountable for the injuries [he] has suffered," and simply wants to insure "that justice is served and the responsible party does not evade responsibility because

[plaintiff] fail[s] to name them in [his] complaint.” Plaintiff’s request will be denied.

In order to state a claim for relief against a defendant in a federal lawsuit in which violations of constitutional rights are alleged, the plaintiff must establish each defendant’s personal involvement in the claimed constitutional violation. Nothing in plaintiff’s complaint or his motion suggests that proposed defendants Davidson or the unknown deputy warden knew that defendant Walter intended to use excessive force against plaintiff and deny him medical care, but that they refused to act to protect plaintiff from harm. Moreover, there are no allegations of fact in plaintiff’s original complaint or in a proposed amended complaint to suggest that proposed new defendants Davidson and the unknown deputy warden directed or consented to defendant Walter’s conduct. See Smith v. Rowe, 761 F.2d 360, 369 (7th Cir. 1985); Crowder v. Lash, 687 F.2d 996, 1005 (7th Cir. 1982). In order for a supervisory official to be found liable under §1983, there must be a "causal connection, or an affirmative link, between the misconduct complained of and the official sued." Smith v. Rowe, 761 F.2d at 369; Wolf-Lillie v. Sonquist, 699 F.2d 864, 869 (7th Cir. 1983). A high official cannot be sued for a subordinate's unconstitutional acts merely because she is the subordinate’s supervisor. Polk County v. Dodson, 454 U.S. 312, 325 (1981).

Because plaintiff has not alleged any facts in his original complaint or a proposed amended complaint sufficient to make out a claim for relief against proposed new defendants

Kyle Davidson and the deputy warden of the Prairie du Chien Correctional Facility, his motion to amend the caption of his complaint and his complaint to include Davidson and the deputy warden as defendants is DENIED.

Entered this 28th day of May, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge