

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

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ANDRE CALMESE,

Petitioner,

v.

PROB. OFF. CRAIG LEFFLER;  
SUP'S DIANNE BINK and DIONNE BOEDEKER;  
WARDEN JOHN HUSZ; and  
REGIONAL CHIEF JAN CUMMINGS,

Respondents.  
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ORDER

04-C-946-C

Plaintiff has been allowed to proceed in forma pauperis in this civil action brought under 42 U.S.C. § 1983, on his claim against defendants Craig Leffler, Dianne Bink, Dionne Boedeker, John Husz and Jan Cummings that his detention in the Milwaukee Secure Detention Facility from January 28, 2004 to March 24, 2004 violated his rights under the Fourth and Fourteenth Amendments and constituted false imprisonment under Wisconsin law. Defendants answered plaintiff's complaint on February 23, 2005. On March 10, 2005, Reed Cornia, a member of the Wisconsin Bar, entered an appearance as counsel for plaintiff. Now counsel has filed a photocopy of the handwritten complaint that plaintiff prepared and

submitted when he was proceeding pro se. The only alteration to the original complaint that is apparent in the proposed amended complaint is that the name “Matthew Frank” has been typed above the names of the other defendants in the caption of the complaint. In a cover letter accompanying the proposed amendment, counsel states,

Please accept for filing the enclosed amended complaint. No further allegations have been made, instead, we simply ask that Matthew Frank, Secretary of the Wisconsin Department of Corrections be added to the caption as a party.

Plaintiff’s request for leave to file an amended complaint will be denied, because the amendment will be futile.

It is well established that liability under § 1983 must be based on a defendant's personal involvement in the alleged constitutional violation. Gentry v. Duckworth, 65 F.3d 555, 561 (7th Cir. 1995); Del Raine v. Williford, 32 F.3d 1024, 1047 (7th Cir. 1994); Morales v. Cadena, 825 F.2d 1095, 1101 (7th Cir. 1987); Wolf-Lillie v. Sonquist, 699 F.2d 864, 869 (7th Cir. 1983). "A causal connection, or an affirmative link, between the misconduct complained of and the official sued is necessary." Wolf-Lillie, 699 F.2d at 869. Although it is not necessary that a defendant participate directly in the deprivation, at the least it must be possible to infer from the allegations of the complaint that the official acted or failed to act with a deliberate or reckless disregard of plaintiff's constitutional rights, or that the conduct causing the constitutional deprivation occurred at his direction or with his

knowledge and consent. Smith v. Rowe, 761 F.2d 360, 369 (7th Cir. 1985). The doctrine of respondeat superior, which allows a supervisor to be held responsible for the acts of his subordinates, does not apply to claims brought under § 1983. Gentry, 65 F.3d at 561; Del Raine, 32 F.3d at 1047; Wolf-Lillie, 699 F.2d at 869.

Nowhere in plaintiff's complaint does he allege that proposed defendant Matthew Frank personally participated in any of the acts forming the basis for his constitutional claims against the other defendants. Moreover, nothing in the factual allegations allows an inference to be drawn that proposed defendant Frank directed or approved the acts of the other defendants. Therefore, plaintiff will not be allowed to amend his complaint to add Matthew Frank as a defendant.

#### ORDER

IT IS ORDERED that plaintiff's motion to amend his complaint to add Matthew Frank as a defendant is DENIED on the ground that plaintiff has failed to allege Frank's

personal involvement in the acts alleged to have violated his constitutional rights.

Entered this 4th day of May, 2005.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge