

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

LUIS VASQUEZ,

Plaintiff,

ORDER

v.

05-C-528-C

MATHEW FRANK, Secretary,
GARY McCAUGHTRY, Former Warden,
MARC CLEMENTS, Security Director,
CURTIS JANSSEN, HSCUM,
STEVEN SCHUELER, HSCSS,
BELINDA SCHRUBBE, HSUM,
GARY ANKARLO, PSUS,
RICK RAEMISCH, OOS,
JAMES MUENCHOW, ICE,
JOHN McDONALD, Social Worker,
GEORGE KAEMMERER, PSU,
DOCTOR LARSON, HSU,

Defendants.

Plaintiff Luiz Vasquez is proceeding on claims that defendants violated his Eighth Amendment rights by exposing him to 24-hour lighting, inadequate ventilation and extreme heat and by depriving him of needed medication. Now before the court is plaintiff's motion to supplement his complaint under Fed. R. Civ. P. 15(d) with allegations that he was again

subjected by the same defendants to the same 24-hour lighting and inadequate ventilation when he was transferred back from general population to the health and segregation complex. He has filed a proposed supplement with his motion.

Under Rule 15(d), the court may allow a plaintiff “to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented.” That is what plaintiff’s supplement does. He does not seek to add new defendants or new legal theories, but simply to include new instances of the same conditions he is already challenging. Although it is unlikely that plaintiff has completed the grievance process with respect to the more recent allegations, I have concluded previously that prisoners need not separately exhaust administrative remedies for subsequent instances of conduct or conditions for which they already completed the grievance process. Freeman v. Berge, No. 03-C-21-C, 2004 WL 1774737 (W.D. Wis. July 28, 2004). See also Johnson v. Johnson, 385 F.3d 503, 521 (5th Cir. 2004) (reaching same conclusion).

Accordingly, plaintiff’s motion to supplement his complaint is GRANTED. Defendants may have until August 1, 2007, in which to inform the court that they wish to

stand on their original answer or to file an amended answer.

Entered this 18th day of July, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge