

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

WALTER BLANCK,

Plaintiff,

v.

JOE VERDEGEN, C.O. STEVENS and
JOHN DOES,

Defendants.

MEMORANDUM

09-cv-504-bbc

In a June 15, 2010 order, I appointed Christopher C. Davis and John C. Scheller to represent plaintiff Walter Blanck in this case. After consulting with his lawyers, plaintiff filed a notice of voluntary dismissal, stating that he had not yet fully exhausted his administrative remedies. On August 6, 2010, the case was dismissed without prejudice.

Since dismissal, plaintiff has submitted numerous letters to the court seeking to reopen the case, stating that he has exhausted his administrative remedies. However, under 42 U.S.C. § 1997e(a), a prisoner must exhaust all available administrative remedies *before* filing a lawsuit in federal court. Dixon v. Page, 291 F.3d 485, 488 (7th Cir. 2002). Because plaintiff did not exhaust his administrative remedies before filing this lawsuit, he cannot reopen it. Instead he will have to inform the court whether he wishes to initiate a new lawsuit. In doing so, he should either submit a new complaint or inform the court that he would like to have the operative complaint in the present case, dkt. #24, treated as the

complaint in the new case. Plaintiff should be aware that he will owe a \$350 filing fee for pursuing a new lawsuit.

When they submitted the voluntary dismissal, counsel for plaintiff stated that “[s]hould [plaintiff] fail to obtain relief through the administrative process . . . counsel will continue to assist him before this Court.” Dkt. #44. Left unclear is whether counsel is willing to represent plaintiff in a new case. I will forward a copy of this memorandum to counsel so that they can communicate with plaintiff and inform the court whether they are willing to act as plaintiff’s counsel in a new case.

Entered this 10th day of April, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge