

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

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REGINALD A. MOTON,

Plaintiff,

v.

GREGORY GRAMS, JANEL NICKEL,  
CAPTAIN RADTKE, LORI ALSUM,  
DALIA SULIENE and R.N. D. BURRESON,,

Defendants.

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ORDER

10-cv-666-slc

In an order entered on March 15, 2011, I granted plaintiff's request to proceed *in forma pauperis* on his claims that defendants Grams and Nickel failed to protect him from an assault by inmate Samuel Upthegrove, that defendants Suliene, Burreson and Alsum were deliberately indifferent to plaintiff's serious medical needs following the assault and that defendants Alsum and Radtke violated plaintiff's due process rights. Defendants have answered plaintiff's complaint and a pretrial conference is scheduled for early September, 2011.

Now before the court is plaintiff's motion to amend his complaint by reasserting claims on which the court already has denied leave to proceed and by adding new claims that plaintiff could have included in his original complaint. This court opens close to 200 pro se lawsuits each year and it has been down a judge since 2008, so it has neither the resources nor the inclination to revisit its leave to proceed decisions absent good cause. Therefore, this court exercises its discretion not to allow such claims at this time.

In his amended complaint plaintiff seeks again to add inmate Upthegrove as a defendant, although plaintiff's theory has changed: now plaintiff wants to sue Upthegrove for assault and battery and have this court exercise its supplemental jurisdiction over this state law claim. Again,

plaintiff could have raised this claim earlier but failed to do so. Plaintiff argues that Upthegrove is a necessary party because his medical and mental health records are at issue and discovery will be hindered if he is not a party. There likely will be disputes about how plaintiff may learn what the defendants knew about Upthegrove and when they knew it, but bringing Upthegrove into the lawsuit would not make these disputes any easier to resolve. He is not a necessary party to this lawsuit. Further, for a lot of reasons, this court is wary of federalizing prisoner-on-prisoner assaults in a situation of the sort presented here. Therefore, the court will deny plaintiff's motion to add state law claims against Upthegrove.

#### ORDER

IT IS ORDERED that plaintiff Reginald Motion's motion to amend his complaint is DENIED.

Entered this 30<sup>th</sup> day of August, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge