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

ROBERT EARL ALEXANDER,

Plaintiff,

v.

PAUL SUMNITCH and
BELINDA SCHRUBBE,

Defendants.

ORDER

11-cv-153-slc

On May 25, 2012, I issued an order granting defendants' motion for summary judgment on the ground that plaintiff Robert Alexander, a prisoner at the Waupun Correctional Institution, failed to exhaust his administrative remedies, as required by 42 U.S.C. § 1997e(a). Dkt. 43. On June 11, 2012, Alexander filed objections to the order and requested that a district judge review the decision. Dkt. 45.

When a party consents to the jurisdiction of a magistrate judge in his lawsuit, he consents to having the magistrate judge enter a final decision in the case. *See* 28 U.S.C. § 636(c)(3); *Central Soya Co., Inc. v. Voktas, Inc.*, 661 F.2d 78, 80 (7th Cir. 1981). Once judgment is entered by a magistrate judge, an aggrieved party may appeal directly to the court of appeals "in the same manner as an appeal from any other judgment of a district court." *Id.* There is no "review" or appeal to the district court judge originally assigned to the case. Further, consent cannot be withdrawn absent extraordinary circumstances. § 636(c)(4); *Lorenz v. Valley Forge, Ins. Co.*, 815 F. 2d 1095, 1097 (7th Cir. 1987); *Geras v. LaFayette Display Fixtures, Inc.*, 742 F. 2d 1037, 1038 (7th Cir. 1984). If the parties in a consent case could change their decision just because they didn't like a magistrate judge's ruling, then consent would be withdrawn in almost every case and consent jurisdiction would be a pointless exercise. The fact that I have not ruled in the way that Alexander wants is not an extraordinary circumstance. Therefore, he cannot withdraw his

consent to my jurisdiction and seek redress with Judge Conley. Alexander's only option is to file an appeal with the Court of Appeals for the Seventh Circuit.

Alexander's specific objections all relate to what he terms "abuse of discretion." He asserts that I failed to follow "proper procedure" under the Americans with Disabilities Act (ADA) as outlined in *Petersen v. University of Wisconsin Board of Regents*, 818 F. Supp. 1276, 1280 (W.D. Wis. 1993), in which this court found that an employee was not required to exhaust an administrative remedy before bringing a claim of employment discrimination in federal court. As explained in the summary judgment order, because Alexander is incarcerated, he cannot bring *any* type of claim under federal law until he first exhausts his administrative remedies. 42 U.S.C. § 1997e(a). This includes any claim that Alexander may believe he has under the ADA.

Alexander claims that the court improperly declined to accept the final pages of his summary judgment response brief (which also contained his request for a preliminary injunction) that he filed on April 9, 2012, seven days after his deadline. *See* dkt. 41. He is incorrect. Although I noted that the filing was untimely, I gave Alexander the benefit of the doubt and reviewed his amended response. I found that both the arguments he raised and his request for a preliminary injunction were irrelevant because they did not relate to the issue of exhaustion.

Alexander next contends that the court prejudiced him by waiting almost a year before screening his complaint. Although I understand that Alexander would have liked a quicker resolution in his case, he fails to explain what prejudice he suffered as a result of the wait and none is apparent from the record.

Alexander also appears to be challenging the screening order itself, objecting to the fact that the court dismissed a majority of the originally named defendants. To the extent that

Alexander is seeking to reopen his case to bring suit against those defendants, that request is denied. As explained in the screening order, I granted Alexander leave to proceed only against defendants Sumnicht and Schrubbe because he did not allege any actions taken by any of the other named defendants. Alexander argues that he requested leave to amend his complaint but the court failed to rule on those requests. A review of the court docket shows that Alexander did not move for leave to amend his complaint or file a proposed amended complaint that looked like the original complaint but highlighted new or modified allegations. Instead, he submitted two "supplements" to his complaint before the court screened his original complaint. Dkts. 12 and 16. Even though the court did not specifically discuss the supplements in its screening order, they suffered from the same defect as his complaint. Alexander made a series of general allegations against "WCI prison officials" without identifying specific actions taken by the individual defendants named in his original complaint. It would not have been reasonable for either the court or defendants to sift through the vague and conclusory allegations and guess at what claims Alexander was asserting against them.

Finally, Alexander makes a few requests related to another case he has in this court. Those requests will be docketed in case no. 11-cv-808-wmc and addressed in a separate order.

In sum, Alexander's motion will be denied because he has not shown that this court relied on a manifest error of law or fact in dismissing his lawsuit for failure to exhaust.

ORDER

IT IS ORDERED that plaintiff Robert Alexander's objection to this court's order entered on May 25, 2012, dkt. 45, is DENIED.

Entered this 9th day of July, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge