

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

KEVIN P. BRADLEY,

Plaintiff,

v.

CATHY STEPP, Secretary of the Department of Natural Resources,
in her official capacity, MACK HANNON, Conservation Officer,
in his official capacity, and TIMOTHY EBERT, Conservation Officer,

Defendants.

ORDER

11-cv-694-bbc

On February 17, 2012, I granted plaintiff Kevin Bradley leave to proceed on the following claims: (1) defendants Mack Hannon, Timothy Ebert and Cathy Stepp violated his right to be free from unreasonable searches and seizures under the Fourth Amendment; (2) Stepp was negligent in her duty to train, supervise and control Hannon and Ebert, in violation of Wisconsin law; (3) Hannon, Ebert and Stepp negligently inflicted emotional distress on plaintiff in violation of Wisconsin law; and (4) Hannon and Ebert falsely imprisoned plaintiff in violation of Wisconsin law. I denied plaintiff leave to proceed on several other claims.

Since then, plaintiff has filed several motions with the court, including motions for reconsideration of the dismissal of his equal protection claim, dkt. #17, and his Eighth Amendment claim, dkt. #18, a proposed second amended complaint, dkt. #19, a motion to add a claim for the tort of conversion against defendant Hannon, dkt. #20, a motion to

edit the second amended complaint, dkt. #21, and a proposed third amended complaint, dkt. #22.

I have already rejected plaintiff's attempts to assert an Eighth Amendment claim and an equal protection claim on two previous occasions. Plaintiff has not alleged any additional facts or raised any legal arguments that alter my previous conclusions. Therefore, I am denying plaintiff's motions for reconsideration of these two claims.

Additionally, I am denying plaintiff's motion to add a claim for conversion against defendant Hannon. In support of the motion, plaintiff alleges that Hannon took a blanket from plaintiff when he arrested him. Plaintiff may not add this claim to his complaint because he has not alleged that he satisfied Wisconsin's notice of claim requirement for this claim. As I explained to plaintiff previously, Wis. Stat. § 893.82(3) requires that plaintiff file a notice of claim with the attorney general within 120 days of the event causing the injury. "A complaint that fails to show compliance with § 893.82 fails to state a claim upon which relief can be granted." Weinberger v. State of Wisconsin, 105 F.3d 1182, 1188 (7th Cir. 1997). Plaintiff alleges that he notified the attorneys representing defendants about the missing blanket on March 28, 2012, more than one year after Hannon allegedly took it. That allegation is not sufficient to show compliance with the notice of claim statute. Thus, I am denying plaintiff's leave to amend his complaint to add a claim of conversion.

Because I am denying plaintiff's motion to add a conversion claim and his motion for reconsideration of his Eighth Amendment and equal protection claims, plaintiff's proposed amended complaints and supplements are unnecessary. Therefore, I am denying plaintiff's several motions to amend his complaint. Further, plaintiff should be aware that as a general

rule, it is inappropriate to file an original complaint, and then add a communication later that makes one change, and another communication a week later making another change, and another a week later making yet another change. A complaint should be one document and not a moving target. At some point, it has to be finished so that the court may understand the plaintiff's claims and so defendants know precisely what it is that they are being charged with doing and what the plaintiff wants as relief. In this instance, because I am rejecting plaintiff's proposed changes, I will not direct plaintiff to file an consolidated complaint. Rather, plaintiff's amended complaint, dkt. #10, will be treated as the operative pleading in the case. However, plaintiff should be aware of this court's rule if he decides to file new cases or seek leave to amend his complaint at some point in the future.

ORDER

IT IS ORDERED that plaintiff Kevin Bradley's motions for reconsideration, dkt. ##17, 18, proposed second amended complaint, dkt. #19, motion to add claim of conversion, dkt. #20, motion to edit second amended complaint, dkt. #21, and proposed second amended complaint, dkt. #22, are DENIED.

Entered this 31st day of May, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge