

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

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DAVID A. SCHLEMM,

Plaintiff,

v.

MATTHEW J. FRANK, EDWARD WALL,  
and PHIL KINGSTON,

Defendants.

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ORDER

11-cv-272-wmc

State inmate David A. Schlemm filed this civil action against prison officials pursuant to 42 U.S.C. § 1983. After screening the complaint as required by the Prison Litigation Reform Act, 28 U.S.C. § 1915A, the court granted Schlemm leave to proceed with claims under the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc-1, and the Free Exercise Clause found in the First Amendment. In October 2013, the defendants filed a motion for summary judgment. To date, Schlemm has not filed a response and his extended deadline to do so has expired. Instead, Schlemm has filed a motion to stay these proceedings and to remand his “state law claims” to state court. (Dkt. # 61). Alternatively, Schlemm requests leave to withdraw or voluntarily dismiss without prejudice his claims under state law. (*Id.*)

The first motion reflects Schlemm’s basic confusion about the scope of this federal lawsuit. Schlemm did not raise any state law claims in his complaint, nor was he granted leave to proceed with claims other than those arising under the RLUIPA and the First Amendment Free Exercise Clause. (*See* Dkts. # 1, # 3). Accordingly, his motion to stay this case for the purpose of pursuing claims in state court will be denied. To the extent

that Schlemm *has* any independent state law claims, this order is without prejudice to his pursuing them *in state court*.

As for Schlemm's other motion seeking an open-ended extension of time to respond to the pending motion for summary judgment and to amend his complaint (dkt. # 62), the court has already granted Schlemm more than one extension of time to respond to the defendants' summary-judgment motion, which has been pending for nearly five months. He has not submitted a proposed amended complaint or provided a valid reason to amend the complaint at this late date and he alleges no cause for his lengthy delay. Accordingly, his request for another extension of time will be denied. If Schlemm does not respond to the defendants' motion for summary judgment within fourteen (14) days from the date of this order, his claims for relief under federal law will be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b).

#### ORDER

IT IS ORDERED that:

1. The motion by plaintiff David A. Schlemm to stay proceedings (dkt. # 61) is DENIED and remand or voluntarily withdraw state law claims is DENIED.
2. Schlemm's motion for an extension of time (dkt. # 62) is DENIED. If Schlemm does not file a response to defendants' motion for summary judgment within fourteen days from the date of this order, his federal claims

will be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). No extension of this deadline will be granted.

Entered this 4th day of March, 2014.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge