

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

ALFREDO VEGA,

Plaintiff,

v.

WILLIAM POLLARD,

Defendant.

ORDER

12-cv-155-bbc

Pro se prisoner Alfredo Vega has filed a motion for leave to amend his complaint in this closed case. In June 2012, the clerk of court entered judgment after I concluded that plaintiff had failed to state a claim upon which relief may be granted with respect to his allegation that defendant William Pollard required plaintiff to pay for a hospital bill. Plaintiff did not appeal the decision. Because plaintiff cannot amend his complaint without first reopening the case, Vesely v. Armslist LLC, 762 F.3d 661, 666-67 (7th Cir. 2014), I construe plaintiff's motion as including a request under Fed. R. Civ. P. 59 or 60 to vacate the judgment.

In his motion, plaintiff says that he has "exhausted all Institution Administrative remedies" and has "new arguments/evidence that he wishes to raise." Plaintiff's first point is irrelevant because I dismissed his claim on the merits rather than for a failure to exhaust his administrative remedies. With respect to plaintiff's second point, new evidence can be

a ground for reopening a case under Rule 59(e) or Rule 60(b)(2), but only if the party shows that he could not have discovered the evidence earlier. United States v. 47 West 644 Route 38, Maple Park, Illinois, 190 F.3d 781, 783 (7th Cir. 1999). Plaintiff has not even attempted to make that showing.

In any event, plaintiff's motion is untimely. The deadline for seeking reconsideration under Rule 59(e) is 28 days; the deadline under Rule 60(b)(2) is one year. Under Fed. R. Civ. P. 6(b)(2), a district court may not extend those deadlines. Accordingly, I cannot grant plaintiff's request for leave to amend his complaint.

ORDER

IT IS ORDERED that plaintiff Alfredo Vega's motion for leave to file an amended complaint, dkt. #25, is DENIED.

Entered this 4th day of August, 2015.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge