

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

ALAN DAVID McCORMACK,

Plaintiff,

v.

GARY H. HAMBLIN, Secretary, his Wardens,
Superintendents, Agents, Designees, and any Successors,
COREY BENDER, JODINE DEPPISCH,
KAREN GOURLIE, ANGELA HANSEN,
CATHY A. JESS, FLOYD MITCHELL,
MOLLY S. OLSON, JAMES PARISI,
WELCOME F. ROSE, RENEE SCHUELER
and MARK K. HEISE,

Defendants.

In this civil action, pro se plaintiff Alan David McCormack is proceeding on claims that defendants retaliated against him for filing a lawsuit about prison conditions, parole decisions and security classifications. In an order entered on April 5, 2013, I denied plaintiff's motions for a preliminary injunction and to amend his complaint. Dkt. #47. Plaintiff has now filed a motion for reconsideration of that order and for leave to amend his complaint. Dkt. #48.

In his motion for preliminary injunction, plaintiff alleged that prison officials retaliated against him for filing this case by moving him into a double cell and taking away

his prison employment. I denied his motion because the alleged retaliation was unrelated to the events at issue in this case and was not physically preventing him from litigating. In his motion for reconsideration, plaintiff argues that being placed in a double cell makes it more difficult to work on his cases and being denied prison employment prevents him from repaying his filing fees and legal loan. Although this alleged retaliation has made plaintiff's life in prison more difficult, plaintiff's situation is no different from that of many other prisoners and it is not preventing him from litigating this case. Plaintiff has offered no good reason for the court to depart from its policy that allegations of retaliation against a prisoner for ongoing litigation must be presented in a separate case.

In addition, plaintiff has filed a motion for reconsideration of the order denying his motion to amend and a new motion for leave to amend. However, plaintiff's brief contains little more than promises that he is preparing an amended complaint to address the deficiencies identified by the court's previous orders. Plaintiff offers no reason to reconsider the previous order. Until plaintiff explains the nature and basis for his amendment, the court cannot consider a motion to amend.

This case has been pending for almost a year and the court is not inclined to give plaintiff unlimited attempts to amend his complaint. I would recommend that plaintiff focus his efforts on collecting admissible evidence to prove his allegations. Nevertheless, the court cannot stop plaintiff from filing a motion to amend. If he does so, he must file the motion along with a proposed amended complaint. If accepted, the proposed amended complaint will replace the previous complaint so it should include the factual allegations

relevant to all of plaintiff's claims in this case, not simply those that have been dismissed. In addition, plaintiff should file a brief explaining why the amendment satisfies the requirements of Fed. R. Civ. P. 15. If plaintiff believes it is necessary to include additional legal arguments, they should be presented in the brief rather than the complaint.

For plaintiff's future reference, it is not necessary for him to file a response to this court's orders or to inform the court of his intention to file motions.

ORDER

IT IS ORDERED that plaintiff Alan David McCormack's "motion for reconsideration and for leave to amend the complaint," dkt. #48, is DENIED.

Entered this 20th day of June, 2013.

BY THE COURT:

/s/
BARBARA B. CRABB
District Judge