

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

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REGGIE L. TOWNSEND,

Plaintiff,

v.

MELVIN PULVER and BRIAN SCHUELER,

Defendants.  
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ORDER

12-cv-896-bbc

Pro se prisoner Reggie Townsend, who is African American, is proceeding on claims that he was assaulted multiple times by a white supremacist prisoner after defendants Melvin Pulver and Brian Schueler placed the other prisoner in the same cell with plaintiff and then refused to separate the two prisoners for several weeks, in violation of the Eighth Amendment and common law negligence. Now plaintiff has filed a motion in which he asks to dismiss his claim against defendant Pulver and add three other defendants. Plaintiff says that he has learned that Pulver was not involved in the incident, but he believes that three other officers (Jeremy Bailey, Christopher Beuthin and Ken Kast) were involved. I stayed the January 31, 2014 dispositive motions deadline until the court resolved plaintiff's motion.

Plaintiff's motion to dismiss his claims against defendant Pulver will be granted as unopposed. However, I am denying the motion to add new defendants as untimely and unfairly prejudicial. Hukic v. Aurora Loan Services, 588 F.3d 420, 432 (7th Cir. 2009)

(“District courts have broad discretion to deny leave to amend where there is undue delay, bad faith, dilatory motive, repeated failure to cure deficiencies, undue prejudice to the defendants, or where the amendment would be futile.”) The new dispositive motions deadline will be February 25, 2014.

As defendants point out, discovery began in this case on May 15, 2013, but plaintiff did not serve defendants any discovery requests directed at learning the identities of the other officers until seven months later, on December 10, 2013. Plaintiff gives no explanation for waiting seven months to explore this issue except to say that the discovery deadline has not yet passed. That is true, but it is beside the point. The discovery deadline is intended to allow the parties to gather information they need to prove their claims and defenses at *trial*. It is not a license to restart the case with new parties at any time before that date. If I were to grant plaintiff’s motion, discovery would have to begin all over again, requiring the court to strike all the remaining deadlines in the case and set an entirely new schedule. In the absence of a showing that plaintiff was prevented from obtaining information about the officers earlier, this is an unfair burden to place upon defendants.

Finally, I note that plaintiff does not allege that officers Bailey, Beuthin or Kast violated his rights. Although he identifies these officers as being responsible for the transfer of the white supremacist into plaintiff’s cell, he does not allege that any of the officers knew that the other prisoner would pose a danger if he was transferred into plaintiff’s cell or that other prisoner was assaulting plaintiff. Without those allegations, plaintiff could not state a claim upon which relief may be granted against the officers.

ORDER

IT IS ORDERED that

1. Plaintiff Reggie Townsend's motion to dismiss his claims against defendant Melvin Pulver, dkt. #36, is GRANTED. Plaintiff's complaint is DISMISSED WITH PREJUDICE as to Pulver.

2. Plaintiff's motion for leave to amend his complaint, dkt. #36, to add new defendants is DENIED.

3. The case will proceed against Brian Schueler only. The deadline for filing dispositive motions is AMENDED to February 25, 2014.

Entered this 11th day of February, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge