

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

LEIGHTON D. LINDSEY,

Plaintiff,

v.

MICHAEL COCKROFT,

Defendant.

ORDER

14-cv-27-bbc

In this civil case, pro se plaintiff Leighton D. Lindsey is proceeding on a claim under the Eighth Amendment against defendant Michael Cockroft for slamming plaintiff's finger in a trap door on his cell. Now, plaintiff has filed what I construe as a motion for leave to amend his complaint. Plaintiff asks to include an additional defendant, Tammy Dickman, and additional claims regarding denial of access to the courts and retaliation. Specifically, he alleges that Dickman will not permit him to use his legal loan to contact any more lawyers. Because plaintiff's proposed amendments would be futile, I am denying his motion.

OPINION

Plaintiff says he has sent three letters to lawyers to solicit their representation in this case, but that Tammy Dickman, an employee at the Wisconsin Secure Program Facility, has refused to allow him to use a legal loan to send any additional letters to lawyers. Plaintiff

says there is no Department of Corrections policy or specific prison policy that limits prisoners to only three letters and he says that Dickman refused to send his letters because she disliked his “disrespectful inappropriate letters to [her] in the past combined with [his] litigation against a fellow employee” (Michael Cockroft, the defendant in this case). Dkt. #12, at 2. Plaintiff argues that his inability to send any more letters hinders his ability to prosecute this case, but he does not point to any adverse ruling that he has experienced because of Dickman’s behavior.

Plaintiff cannot state a claim for denial of access to the courts without alleging that he has experienced an “actual injury,” that is, some sort of prejudice in his lawsuit. Lewis v. Casey, 518 U.S. 343, 351 (1996). Plaintiff’s lawsuit is proceeding against defendant Michael Cockroft, and so far plaintiff has not missed any deadlines or received an adverse ruling. The fact that prison policy might allow Dickman to make a different decision about plaintiff’s letters does not make her decision unconstitutional. Plaintiff has not identified an injury and therefore has not demonstrated that he has been denied access to the courts.

Plaintiff’s retaliation claim poses a problem under Fed. R. Civ. P. 20, which prohibits joining unrelated claims against different defendants in the same suit. Defendant Cockroft’s alleged slamming of plaintiff’s finger in his trap door was an event entirely separate from Dickman’s decision about plaintiff’s legal mail. Because the defendants are different and the two events lack any common questions of fact or law, the claims may not be joined in the same suit. Therefore, allowing plaintiff to amend his complaint would be futile. Owens v. Hinsley, 635 F.3d 950, 956 (7th Cir. 2011). If plaintiff wishes to pursue a retaliation claim

against Dickman, he will have to do so in an entirely new lawsuit.

ORDER

IT IS ORDERED that plaintiff's motion to amend his complaint, dkt. #12, is DENIED.

Entered this 23d day of April, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge