

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

SAMUEL HAYWOOD MYLES,

Plaintiff,

v.

UNITED STATES, RAVI GUPTA and
UNKNOWN NAME MEDICAL STAFF PHARMACIST,

Defendants.

ORDER

14-cv-661-bbc

Plaintiff Samuel Haywood Myles is proceeding on claims that defendants Ravi Gupta and a Jane Doe pharmacist at the Federal Correctional Institution in Oxford, Wisconsin violated the Eighth Amendment and were negligent when they prescribed hypertension medicine for plaintiff that caused him to faint and break his ankle. Under this court's scheduling order, dkt. #27, plaintiff had until May 28, 2015 to amend his complaint to name the Doe defendant. On May 28, 2015, plaintiff filed what he called an amended complaint. Dkt. #39. In it, he does not name the Doe defendant or allege new facts; rather he argues that defendant United States was required by law to give him the name of the Doe pharmacist. Id. On June 3, 2015, defendant United States filed a response to plaintiff's discovery request in which defendant gives plaintiff names of the pharmacists and pill dispensers who worked in Oxford at the relevant time period. Dkt. #40. (Although plaintiff had filed similar requests with the court in April, he was instructed to send discovery

requests to defendant directly. Dkt. #30. Defendant says plaintiff sent this request on May 18, 2015.)

I construe plaintiff's May 28 filing as a motion for an extension of time to name the Doe pharmacist. Plaintiff may have until July 2, 2015 to name the Doe defendant. He need not file an entirely new complaint. Instead, he may file a proposed amended caption in which he lists the name of the Doe pharmacist, along with the other defendants in his case. If plaintiff fails to name the Doe defendant by July 2, 2015, this defendant will be dismissed from plaintiff's case. If in the future plaintiff wishes to add any more defendants or allegations, he must do two things: first, he must file a proposed amended complaint that entirely replaces his previous one, alleging all relevant facts against all defendants; second, he must file a brief setting forth his argument for why the court should allow him to amend his complaint at this stage in the proceedings under Fed. R. Civ. P. 15.

In his May 28 motion, plaintiff also asks for a "subpoena d.t." for documents from defendants. As I have explained to plaintiff before, he need not file a subpoena with the court in order to obtain documents from defendants. Instead, he should send his requests for production of documents to defendants directly. If defendants do not respond to plaintiff's discovery requests after 30 days, plaintiff may file a motion with the court to compel defendants to provide the discovery he wants. However, before he files such a motion, he must make a good faith effort to resolve the discovery dispute with defendants directly. Fed. R. Civ. P. 26, 37.

Finally, plaintiff asks the court to appoint counsel for him, which I construe as a

motion for assistance in recruiting counsel. Dkt. #33. To show that he has made efforts on his own to recruit counsel, plaintiff included copies of letters from more than three lawyers who have declined to assist him. Dkt. ##33-35. In addition to determining whether plaintiff has made his own efforts to recruit counsel, the court also considers whether the complexity of the case exceeds plaintiff's ability to litigate it. Santiago v. Walls, 599 F.3d 749, 762 (7th Cir. 2010); Pruitt v. Mote, 503 F.3d 647, 661 (7th Cir. 2007).

Plaintiff's claims are that he was prescribed medicine that caused him to have dangerously low blood pressure, which, in turn, caused him to fall and break his ankle. Although medical care claims can be complex and sometimes require expert testimony, at this time I cannot say whether that will be true of plaintiff's claims because the facts have not been developed at this point. Up to now, plaintiff has been an active advocate for himself and was able to follow this court's instructions on providing evidence of his efforts to recruit counsel. At this time, I cannot conclude that litigating these claims is beyond the scope of his abilities. If at a later date, it becomes clear that plaintiff's claims are too complex for his abilities, plaintiff is free to renew his motion.

ORDER

IT IS ORDERED that

1. I construe plaintiff Samuel Haywood Myles's May 28, 2015 filing identified as an "amended complaint," dkt. #39, as a motion for an extension of time to name the Jane Doe defendant. That motion, dkt. #39, is GRANTED. Plaintiff may have until July 2, 2015 to

file an amended caption to his complaint naming the Doe defendant. If plaintiff fails to do so, the Doe defendant will be dismissed from the case.

2. Plaintiff's motion for assistance in recruiting counsel, dkt. #33, is DENIED without prejudice.

Entered this 18th day of June, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge