

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

WILLIAM TEAS,

Plaintiff,

v.

DALIA SULIENE, KARL HOFFMAN,
KAREN ANDERSON, MEREDITH MASHANK,
LILLIAN TENEBRUSO, NANCY WHITE,
ANTHONY ASHWORTH, MICHAEL WEBER,
DAVID MELBY, JANEL NICKEL,
KEVIN BOODRY, MICHAEL DITTMAN,
JAMES GREER, EDWARD WALL and OFFICER BOWAR,

Defendants.

ORDER

16-cv-452-bbc

Pro se plaintiff William Teas has filed a second motion for an extension of time to amend his complaint to correct defects the court found in his original complaint. Dkt. #10. For the reasons explained below, I am denying the motion.

In an order dated August 31, 2016, dkt. #7, I allowed plaintiff to proceed on several claims regarding treatment of his back pain, but I concluded that the following two claims did not provide fair notice, as required by Fed. R. Civ. P. 8: (1) defendants Karen Anderson, Meredith Mashak, Lillian Tenebruso and Nancy White allegedly failed to schedule appointments with physicians in a timely manner, in violation of the Eighth Amendment; and (2) defendants Anderson, Mashak, Tenebruso and White failed to take any action when

defendants Suliene and Hoffman did not provide appropriate treatment for plaintiff's back problems, in violation of the Eighth Amendment. With respect to the first claim regarding alleged delays, plaintiff did not identify any particular instances of delays, how long he had to wait, the reasons for the delays, whether he needed emergency care (and if so, why he believes this), why he believes his wait time was too long or how an earlier appointment would have made a difference to his condition. With respect to the second claim regarding the alleged failures of managers of the health services unit to question the treatment choices of plaintiff's physicians, plaintiff did not identify any reason to believe that the managers knew that the physicians were providing inadequate treatment or that the managers had the authority, responsibility or even necessary knowledge to second guess the decisions of plaintiff's physicians.

Although plaintiff's allegations with respect to these two claims did not state a claim upon which relief may be granted, I gave plaintiff until September 20, 2016, to try again. When plaintiff said he needed more time, dkt. #8, I granted him an extension until October 3, 2016, dkt. #9. Now plaintiff says that he needs another extension to October 28, 2016, to file an amended complaint. Dkt. #10.

Plaintiff makes several excuses for needing more time, but none of them are persuasive. First, plaintiff says that he "has been unable to access his user account on the institution's computer system." Id. at ¶ 1. He does not explain why he is having this problem or how long it has lasted. Regardless of the reason, lack of access to a computer does not prevent plaintiff from filing an amended complaint. Plaintiff does not need to

perform any legal research to comply with the court's order; he simply needs to explain what defendants did to him, relying on his own personal knowledge. Further, plaintiff does not need to type the complaint; a handwritten complaint is adequate.

Plaintiff says that he cannot hand write the complaint because he is in too much pain. He made the same allegation in his previous motion for an extension of time, but he has not supported the allegation in either motion. In his new motion, plaintiff says that his back pain prevents him from writing, but it is not obvious why back pain would have that effect. He does not allege that he has pain in his hands or arms. Without supporting evidence, this allegation is not persuasive.

Next, plaintiff says that his jailhouse lawyer has limited time to help him. However, plaintiff does not need a jailhouse lawyer to prepare his amended complaint. Although a jailhouse lawyer might be helpful at later stages in the case, that person cannot provide answers to the questions raised by the court. Again, plaintiff must rely on *his own* personal knowledge to answer those questions. Plaintiff does not allege that he is unable to read, write or explain what happened to him, which is all he needs to do in order to file an amended complaint, so he needs no help from a jailhouse lawyer.

Because plaintiff has not identified good cause for extending his deadline a second time, I am denying his request. If plaintiff wishes to file an amended complaint in the future, he will have to file a motion under Fed. R. Civ. P. 15, which requires him to show that his amended complaint will not unduly delay the proceedings or unfairly prejudice defendants. Campania Management Co. v. Rooks, Pitts & Poust, 290 F.3d 843, 848-49

(7th Cir. 2002).

ORDER

IT IS ORDERED that

1. Plaintiff William Teas's motion for an extension of time, dkt. #10, is DENIED.
2. Plaintiff's complaint is DISMISSED as to defendant Lillian Tenebruso.
3. Any future proposed amendments to plaintiff's complaint will have to be accompanied by a motion under Fed. R. Civ. P. 15.

Entered this 4th day of October, 2016.

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