

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

MONTELL M. HORTON,

Plaintiff,

ORDER

v.

02-C-0470-C

GERALD BERGE, PETER HUIBREGTSE,
PAMELA BARTELS and JOHN DOE,

Defendants.

In compliance with a directive from the magistrate judge to amend his complaint no later than no later than November 15, 2002 to identify the “John Doe” defendant named in plaintiff’s original complaint, plaintiff has filed a document titled “Plaintiff’s Pro Se Amended Complaint to Identify John Doe Defendant in Claim #1.” In this document, plaintiff identifies Linda Hoddy-Tripp as the Doe defendant referred to in paragraphs 162 and 163 of his original complaint, and he asks that Hoddy-Tripp be added as a defendant in paragraph 161 of the original complaint. In addition, plaintiff restates the demands for relief he requested in his original complaint, with the only exception that he has added a specific request for medical treatment with an optometrist-specialist at the University of

Wisconsin hospital.

Ordinarily, an amended complaint completely replaces the original complaint. This is so that the parties and the court do not need to search the record for two or more documents that make up the operative pleading. In this case, plaintiff's proposed "amended complaint" does not stand on its own as the operative pleading. The vast majority of the factual allegations of the original complaint are missing. Instead, plaintiff states in his proposed amended complaint that he is "realleg[ing] and incorporat[ing] all [of] paragraphs 1-227 set forth in his original complaint" Because plaintiff's proposed amended complaint makes no substantial changes to the relief requested (plaintiff's specific request for medical treatment is already encompassed in the more general request he made in his original complaint for injunctive relief against the continued violation of his constitutional rights), and because plaintiff's only other change is to substitute Hoddy-Tripp's name for the Doe defendant in paragraphs 162 and 163 and to add Hoddy-Tripp's name as a defendant in paragraph 161, I have reproduced plaintiff's original complaint and have modified it to show plaintiff's changes to paragraphs 161, 162 and 163 and to title the document "Amended Complaint." A copy of the amended complaint as modified by the court is enclosed to the parties with a copy of this order, and an extra copy of the amended pleading is being sent to the Attorney General's office so that defendant Hoddy-Tripp can be served with it through the informal service agreement the court has with the Attorney General's

office.

ORDER

IT IS ORDERED that plaintiff's amended complaint as modified by the court is considered as of this date to have been filed with the court as the operative pleading in this case and to have been served on the existing defendants.

Defendants Berge, Huibregste and Bartels may have until the date defendant Hody-Tripp's responsive pleading to the amended complaint is due in which to serve and file their response to the amended complaint. The December 6, 2002 deadline for answering the amended complaint established in the magistrate judge's order of October 15, 2002, is RESCINDED.

Entered this 19th day of November, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge