

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

TITUS HENDERSON,

Plaintiff,

v.

DAVID BELFUEIL and
KAREN LALONE,

Defendants.

ORDER

03-C-729-C

This is a prisoner civil rights lawsuit in which plaintiff claims that defendants subjected him to a violent and unnecessary blood draw on October 1, 2002. There is an ongoing dispute between the parties as to which nurse employed by Prison Health Services, Inc., actually drew the blood from plaintiff. Initially, the parties agreed that this Jane Doe defendant was Judy Chojnacki, who was identified as a defendant and who filed a summary judgment motion to which plaintiff fully responded. Before that motion could be decided, the defendants became convinced that a different nurse, Karen Lalone, actually drew plaintiff's blood. Plaintiff agreed to substitute Lalone for Chojnacki as a defendant in this case. Lalone then filed her own motion for summary judgment, for the most part offering

the same facts that Chojnacki previously had offered.

In his reply to Lalone's motion and proposed findings of fact, plaintiff implied that he no longer was agreeing that Lalone drew the blood. Instead, he referred to both Chojnacki and Lalone as "the nurse" who drew his blood. See plaintiff's response to oppose Karen Lalone's proposed findings of fact, dkt. 112 at 4.

In light of this, Prison Health Services offered to bring Chojnacki back into the case as a co-defendant so that both nurses who were in the room during the blood draw remained in the lawsuit. See April 21, 2005 letter of Attorney Douglas S. Knott, dkt. 115. Plaintiff opposes this proposal, accusing Attorney Knott of intentionally making false statements. Plaintiff believes he is entitled to amend his complaint again and will not agree to add Chojnacki back into this case unless his demand is granted.

Plaintiff is not entitled to amend his complaint. Prison Health Services' suggestion is logical and reasonable under the circumstances. Plaintiff has had the opportunity to respond to affidavits filed by both Chojnacki and Lalone in their respective motions for summary judgment. There is no prejudice to plaintiff by bringing Chojancki back into the case and considering her previously-filed motion for summary judgment along with Lalone's motion for summary judgment. In the event this court denies defendants' motions, then plaintiff will have the opportunity at trial to identify which nurse he claims actually put the needle in his arm.

Accordingly, IT IS ORDERED that Judy Chojancki is added as a defendant in this case and her motion for summary judgment is under advisal to the court.

Entered this 9th day of May, 2005.

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