

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

LUIS A. RAMIREZ,

Petitioner,

v.

ORDER

04-C-335-C

GARY R. McCAUGHTRY,
MATTHEW FRANK,
CURT JANSSEN,
CAPT. STEVEN SCHUELER, and
MARC CLEMENTS,

Respondents.

Petitioner Luis A. Ramirez submitted a proposed complaint on June 11, 2004 and requested leave to proceed in forma pauperis. In an order dated that same day, I concluded that petitioner had no means with which to make an initial partial payment of the \$150 fee for filing his complaint and I took under advisement his complaint for screening pursuant to 28 U.S.C. § 1915(e)(2).

On June 15, 2004, petitioner submitted a document titled "Amended Complaint," in which he asked to add Steven Casperson as a defendant. Neither the amended complaint nor the original complaint contains any allegations of constitutional wrongdoing against

defendant Casperson.

On June 27, 2004, petitioner wrote to the court to ask for a copy of his complaint. He does not mention the amended complaint. He simply states that “the copy I kept for my personal records are no longer in my cell . . . in the future I will be more careful where I put my papers, so not to lose them.”

On July 2, 2004, petitioner filed a second amended complaint. He asks that he be allowed to “supplement” his original complaint with additional information contained in the second amended complaint. In addition, he asks to substitute “all relief ask[ed] for on the original” action with thirty items of relief listed in the second amended complaint. Petitioner ends his second amended complaint with the statement, “subject to subsequent amendment.” It is clear from petitioner’s submissions that he does not recognize that his complaint cannot be a moving target, changing every few days to allege a new or continuing violation of his legal rights. Under the Prison Litigation Reform Act, this court is required to screen petitioner’s complaint to identify the claims and dismiss any claim that is frivolous, malicious or is not one upon which relief may be granted. The screening obligation applies at all stages of the lawsuit. However, it is an inefficient use of the court’s time to attempt to screen petitioner’s complaint if he is continually changing it.

Moreover, an amended complaint must stand on its own as the operative pleading in the case. In other words, an amended complaint must completely replace the original

complaint. It is simply too confusing for the parties and the court when there is an original complaint and then one or more documents adding to or subtracting from that document scattered about the file.

ORDER

IT IS ORDERED that if petitioner wants to substitute a different complaint for the one he filed on June 11, 2004, he may have until July 20, 2004, in which to do so. If, by July 20, 2004, petitioner has not revised his complaint and submitted it for consideration, I will assume he has abandoned the idea of changing the original complaint and I will proceed to screen the complaint he submitted on June 11, 2004. If he submits a revised complaint, I will ignore the original and amended complaints he already has filed and proceed to screen the revised complaint and will treat it as the only complaint in this case.

Entered this 7th day of July, 2004.

BY THE COURT:
BARBARA B. CRABB
District Judge