

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

MICHAEL L. WINSTON,

Plaintiff,

v.

PHIL KINGSTON, MIKE
VANDENBROOK and JOHN DOES
unlimited, sued in their official and
individual capacities,

Defendants.

ORDER

04-C-59-C

In an order dated March 11, 2004, I granted plaintiff leave to proceed in forma pauperis on his claims that defendants violated his right to be free from cruel and unusual punishment under the Eighth Amendment when they failed to protect him from excessive cold and provide him with sanitary conditions of confinement and adequate bedding. Plaintiff has now filed an amended complaint, which I assume plaintiff prepared before he received the order granting him leave to proceed.

Under 28 U.S.C. § 1915A, all complaints submitted by prisoners must be screened by the court. Accordingly, I construe plaintiff's proposed amended complaint to include a

motion to amend his original complaint, which will be denied as unnecessary. In the March 11, 2004 order, I allowed plaintiff to proceed on all of his claims. Plaintiff's new complaint does not add any new claims or name additional defendants. Instead, plaintiff has added factual detail, alleging, for example, that the table cloth he was provided to keep warm was not large enough to wrap around his body and that the floor mat was only a half-inch thick. These facts may be relevant to proving an Eighth Amendment violation, but they are not necessary to satisfy the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Plaintiff's original allegations were sufficient to put the defendants on notice of his claim, which is all that Rule 8 requires. Accordingly, plaintiff's original complaint will remain the operative pleading.

ORDER

IT IS ORDERED that plaintiff Michael Winston's motion to amend his complaint is DENIED as unnecessary.

Entered this 15th day of March, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge