

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

DAVID J. CLARK,

Plaintiff,

v.

GAIL STEVENSON, JOHN JONES
JAMIE L. JACOBS and WANDA W.
BALDWIN,

Defendants.

OPINION and ORDER

06-C-419-C

In an order dated August 24, 2006, I granted plaintiff David Clark, a patient at the Wisconsin Resource Center in Winnebago, Wisconsin, leave to proceed in forma pauperis on his claim that defendants Gail Stevenson, John Jones, Jamie Jacobs and Wanda Baldwin issued him “warnings” and “counsels” for alleged rule violations in retaliation for his filing a lawsuit against defendant Baldwin. On September 12, 2006, plaintiff requested leave to amend his complaint in order to add proposed defendant Amy Bump to this lawsuit. In an order dated September 22, 2006, I denied the request after finding that the allegations contained in plaintiff’s amended complaint did not implicate Bump in any violation of plaintiff’s rights.

Now before the court is plaintiff's second motion to amend his complaint, in which he seeks to add two new defendants, Bump and Wisconsin Resource Center Unit Supervisor Diane Fergot. Again, plaintiff's motion will be denied.

In his second proposed amended complaint, dkt. #11, plaintiff alleges that proposed defendant Fergot (1) issued him a behavioral disposition report for not wearing shorts under his bathrobe and (2) asked him a question "in spite of Clark having expressed his desire to her not to be spoken to by her." Dkt. #11, at 3-1. These actions cannot be construed as constitutional violations.

With respect to proposed defendant Bump, plaintiff merely repeats the allegations contained in his first proposed amended complaint, dkt. #7, that Bump "communicated to Jones an allegation of Clark 'soliciting staff' because he made a constructive, legitimate request to her." Dkt. #11, at 3-1. As I explained in the September 22 order, it is impossible to infer from this allegation that Bump violated any of plaintiff's constitutional rights by "communicating to Jones" the statements plaintiff allegedly made to her, regardless how she characterized them.

Because amending the complaint to include the proposed new material would be futile, I will deny plaintiff's request for leave to proceed with his second proposed amended complaint and to add Amy Bump and Diane Fergot as defendants.

ORDER

IT IS ORDERED that plaintiff David J. Clark's request for leave to file a second amended complaint is DENIED.

Entered this 16th day of October, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge