

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

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CHAD BOUMAN,

Plaintiff,

ORDER

v.

07-C-367-C

S. ROBINSON, Unit Manager;  
SPROUL, Unit Manager;  
M. JACOBS, Correctional Officer;  
R. MARTINEZ, Warden;  
M. NALLEY, Regional Director, Federal Bureau of Prisons,  
Kansas City, Kansas;  
H. WATTS, Administrator, National  
Inmate Appeals, Federal Bureau of Prisons,  
Washington, D.C.,

Defendants.

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On August 10, 2007, I granted plaintiff leave to proceed in this action on his claims that because of a speech plaintiff gave regarding Free Masons, defendant R. Martinez placed plaintiff in the special housing unit, defendant M. Jacobs issued plaintiff a conduct report for possessing contraband and defendants S. Robinson and Sproul found plaintiff guilty of possessing contraband and removed him from his prison job, in violation of plaintiff's right to free speech under the First Amendment and 28 C.F.R. § 551.90. In addition, I granted

plaintiff leave to proceed on his claim that defendants Martinez, M. Nalley and H. Watts refused to intervene even though they knew that defendants Robinson, Jacobs and Sproul were retaliating against plaintiff for exercising his right to free speech. I dismissed J. Shook as a defendant, however, because plaintiff's complaint did not contain any factual allegations from which I could infer reasonably that Shook was personally involved in any of the alleged constitutional violations.

Plaintiff's complaint has been forwarded to the United States Marshal for service on the defendants. They will have sixty days after they have been served with the complaint in which to file their responses to it. Now plaintiff has filed a "Motion to File a Supplemental Complaint." That motion will be denied for two reasons.

First, plaintiff does not indicate that he served a copy of his motion on each of the defendants against whom he was allowed to proceed. As this court told plaintiff in the order granting him leave to proceed,

Petitioner should be aware of the requirement that he send respondents a copy of every paper or document that he files with the court. Once petitioner has learned the identity of the lawyer who will be representing respondents, he should serve the lawyer directly rather than respondents. The court will disregard any papers or documents submitted by petitioner unless the court's copy shows that a copy has gone to respondents or to respondents' attorney.

Because plaintiff has not heeded the court's instruction regarding service of his motion, it should be disregarded.

Second, even if I could consider the motion, plaintiff explains that what he wants is permission from the court to file an addendum to his complaint in which he provides factual allegations concerning former defendant Shook. Plaintiff did not submit a proposed addendum to his motion. Nevertheless, under Fed. R. Civ. P. 15(d), the court may allow a plaintiff “to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented.” That is not what plaintiff wants to do. He appears to want to alter his original complaint so as to cure defects in his allegations concerning former defendant Shook. In order to do that, plaintiff will have to move to amend his complaint, and submit a copy of his proposed amended complaint at the time he makes his motion.

For plaintiff’s information, if he decides to file a motion to amend his complaint, it must be accompanied by a proposed amended complaint, which must be in a specific format. In particular, plaintiff will have to rewrite his original complaint so that it contains all of the allegations he made in his original complaint, show proposed defendant Shook in the caption along with the other defendants, and includes appropriate paragraphs in the body of his complaint setting forth his allegations of wrongdoing against Shook. To assist the court in easily identifying any new allegations, plaintiff should underscore or highlight the new allegations. In sum, if the court allows plaintiff to proceed on the amended complaint, the amended complaint must be a pleading that will replace the original complaint in its

entirety.

ORDER

IT IS ORDERED that plaintiff's motion to file a supplemental complaint is DENIED.

Entered this 29th day of August, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge