

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

WALTER BLANCK,

Plaintiff,

v.

JOE VERDEGEN, C.O. STEVENS and
JOHN DOES,

Defendants.

ORDER

09-cv-504-bbc

This case has a convoluted history, which I will summarize below. In a March 8, 2010 order, I granted plaintiff Walter Blanck leave to proceed on claims that defendants Joe Verdegen, C.O. Stevens and Stevens's John Doe inmate workers were retaliating against him for being involved in previous lawsuits. Also, I appointed him counsel to assist him in prosecuting the case. On August 6, 2010, the case was dismissed without prejudice for plaintiff's failure to exhaust his administrative remedies. Since that time, plaintiff has indicated his desire to reopen the case, stating that he has exhausted his administrative remedies. I have previously informed plaintiff that the current case cannot be reopened because administrative remedies must be exhausted before a plaintiff initiates the case.

Plaintiff now wants to bring a new lawsuit with the operative complaint in this case treated as the complaint in the new case. In a September 10, 2012 order, I granted counsel's motion to withdraw from the case after plaintiff made it clear that he did not want to work

with his appointed lawyers and I denied his motion for appointment of new counsel. I explained further that the court would not accept for filing any new complaints filed by plaintiff until he first proved that he had exhausted his administrative remedies.

Plaintiff responded by submitting two letters stating that he had exhausted various grievances. He included a summary of his grievance history, which seemed to indicate that at least some of the dozens of grievances he filed over the past few years were appealed to the Corrections Complaint Examiner's Office, although it was unclear how many of those were fully appealed to the Office of the Secretary. Plaintiff stated that he had more materials that he would send in but could not because he did not have adequate funds. His trust fund account statement supported this assertion; it showed that he had less than \$3 available. Usually an inmate in need of funds for copying and postage could apply for legal loans to cover these expenses but plaintiff seemed to be saying that he was ineligible for these funds.

In a December 4, 2012 order, I responded as follows:

I am reluctant to allow plaintiff to initiate a new lawsuit (and be on the hook for another \$350 filing fee) unless he can provide more information about the grievances that underlie the *specific* retaliation claims in his proposed complaint. Plaintiff's recent submissions are a start but they are extremely unfocused and do not provide enough information to allow the court to determine whether he has exhausted grievances related to his claims. Accordingly, I will give plaintiff a final chance to submit as much information regarding his grievances as possible, including copies of the administrative grievances and appeals he filed, as well as the responses filed by prison officials. He should focus solely on the grievances that are related to his retaliation claims against defendants Verdegen, Stevens and John Doe inmate workers—grievances against prison officials other than Verdegen or Stevens will not suffice. In addition, in his response he should list *by grievance number* the specific grievances he believes supports his claims. If plaintiff does not have the funds to send in these materials and cannot obtain legal loans to do so, he should send the court copies of his legal loan requests and the denials by prison officials.

Now plaintiff has responded to the December 4 order, providing over 100 pages of materials, much of which consist of (as is the case with many of his previous filings) his rambling allegations about being “chemically opened” by the FBI and the resultant conspiracy by the government to harm him, a claim that has already been dismissed in previous litigation. However, he has provided also documents showing that he has exhausted his administrative remedies with regard to the following claims:

- GBCI-2010-20277 - small meal portions
- GBCI-2010-20734 - clothes were taken from him and not returned
- GBCI-2010-22796 - inmate worker is “altering” his meals
- GBCI-2011-10047 - Sgt. Laufenberg leaked his federal background to other inmates
- GBCI-2011-11983 - forced to walk up stairs
- GBCI-2011-12331 - CO Meyer “stalking” and intimidating him
- GBCI-2011-12832 - size of meal
- GBCI-2011-13230 - cell search, removal of documents
- GBCI-2011-17330 - legal materials taken
- GBCI-2011-19049 - CO Meyer taunted him

Several of these grievances seem to relate to the retaliatory actions plaintiff raised in his complaint: that (1) various correctional officers, including defendant Joe Verdeggen, have loudly called him a “snitch” and “federal whistle blower” in front of other inmates, leading to harassment; and (2) defendant Correctional Officer Stevens and his defendant John Doe inmate workers are serving him “ultra tiny” food portions, leading to health problems. Because plaintiff seems to have exhausted his administrative remedies with regard to various

claims, the court should accept for filing complaints plaintiff files regarding his claims.

However, plaintiff will not be allowed to simply refile the operative complaint in this case as a new case because he has “struck out” under 28 U.S.C. § 1915(g), which means that he may proceed only on his claims that he is being subjected to imminent danger of serious physical harm. He will not be allowed to proceed on claims of past harm. Because so much time has passed from the filing of plaintiff’s operative complaint in the present case and because he seems to be raising claims against defendants who were not named in this case, he will have to start from scratch with a brand-new complaint indicating that he is *presently* in imminent danger.

In submitting his new complaint or complaints, plaintiff should follow the following guidelines:

(1) Plaintiff should draft the amended complaint as if he were telling a story to people who know nothing about his situation, taking care to identify what each named defendant did to violate plaintiff’s rights.

(2) Plaintiff should not write extra notes in the margins of his complaint, because doing so makes it difficult to make out what he is trying to say. To assist plaintiff, I will attach a copy of the court’s § 1983 complaint form.

(3) Plaintiff must attach a copy of his most recent six-month trust fund account statement, so that the court can determine plaintiff’s initial partial payment.

(4) As stated above, plaintiff will be limited to claims that he is *currently* in imminent danger of serious physical harm.

ORDER

IT IS ORDERED that

(1) Plaintiff Walter Blanck's motion to refile the operative complaint in the present case as a complaint in a new case, dkt. #94, is DENIED.

(2) This case will remain closed.

(3) Plaintiff may file an entirely new complaint as instructed above.

Entered this 6th day of March, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge