

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

On August 6, 2010, this case was dismissed without prejudice for plaintiff Walter Blanck'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 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. Also, he requests that his current court-appointed counsel withdraw from the case and new attorneys be appointed to represent him. Counsel filed a motion to withdraw from their representation. In a June 21, 2012 order, I described plaintiff's filings as follows:

As I understand plaintiff's submissions, he is arguing that his attorneys have a conflict of interest because their firm, Michael Best & Friedrich, has represented members of the Republican Party, which is in some way connected to a decades-long conspiracy to harm him in conjunction with his clandestine

work for the Federal Bureau of Investigation. (The Eastern District of Wisconsin has dismissed those conspiracy claims as frivolous. Blanck v. Federal Bureau of Investigation, case no. 07-cv-276 (E.D. Wis. Dec. 20, 2007) (“plaintiff’s Bivens claims stand as a textbook example of frivolity”).) Following communications with plaintiff, appointed counsel have filed a motion to withdraw from further representation of plaintiff, but they appear to base their motion on plaintiff’s requests to have them removed rather than acknowledge a conflict themselves.

Dkt. #82. Counsel has responded, stating that plaintiff has made it clear that he will not work with them. Plaintiff confirms this in his submissions. Accordingly, I will grant counsel’s motion to withdraw.

This is not to say that I agree with plaintiff’s view that other lawyers will be more helpful than the current ones. Plaintiff’s allegations that counsel is unfit to represent him in this litigation is unfounded, and there is no reason to believe that he will have any different opinion about any other counsel the court appoints. Appointment of new counsel would be particularly imprudent given that plaintiff has already encountered significant difficulties in exhausting his administrative remedies and he has not yet shown that he has a claim that can progress past the exhaustion stage. Therefore, I will deny plaintiff’s motion for appointment of new counsel.

Given plaintiff’s waste of judicial resources and the time of the court-appointed attorneys, there is little point in plaintiff’s filing his allegations in a new case (and incurring the cost of another \$350 filing fee) unless he can first show that he has exhausted his administrative remedies. Accordingly, I will not allow plaintiff to file a new complaint raising the same issues he has raised in this complaint. The clerk’s office will route any subsequent proposed complaints that plaintiff files directly to chambers to allow me to

determine whether plaintiff can show that he has exhausted his administrative remedies. This should be as easy as submitting copies of the administrative grievances and appeals he filed, as well as the responses filed by prison officials. If plaintiff fails to show that he has exhausted his administrative remedies, the court will give his pleadings no further consideration.

ORDER

IT IS ORDERED that

1. The motion to withdraw as counsel filed by Attorneys Christopher C. Davis and John C. Scheller, dkt. #76, is GRANTED.

2. Plaintiff Walter Blanck's motion for appointment of new counsel, dkt. #75, is DENIED.

3. Plaintiff's motion to have his allegations treated as a complaint in a new case, dkt. #75, is DENIED.

4. Any future complaints filed by plaintiff will not be docketed but rather sent directly to chambers for a determination of his exhaustion of administrative remedies on those claims. If plaintiff fails to show that he has exhausted his administrative remedies, the court will give his pleadings no further consideration.

Entered this 10th day of September, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge