

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

MARKUS GRANSBERRY,

Plaintiff,

v.

DR. D. SULIENE, L. ALSUM
and SGT. FRIEND,

Defendants.

ORDER

09-cv-730-bbc

In this civil action for monetary relief brought pursuant to 42 U.S.C. § 1983, plaintiff Markus Gransberry is proceeding on claims that defendants Dr. Suliene, L. Alsum and Sgt. Friend failed to provide him adequate medical treatment in violation of the Eighth Amendment. Now before the court is plaintiff's motion for leave to amend his complaint and add correctional officer Bittelman and nurse Kim Campbell as a defendants, dkt. #71. I will deny this motion.

Under Fed. R. Civ. P. 15(a)(2), a court "should freely give leave [to amend the complaint] when justice so requires." In determining whether a plaintiff satisfies this standard, courts consider a number of factors, including whether the amendment would be

futile or cause unfair prejudice or whether the party waited too long to ask for amendment. Foman v. Davis, 371 U. S. 178, 182 (1962); Sound of Music v. Minnesota Mining & Manufacturing Co., 477 F.3d 910, 922-23 (7th Cir. 2007).

At this late date, defendants would be prejudiced if plaintiff were allowed to amend his complaint. Plaintiff was granted leave to proceed only on his claims that defendants Suliene, Alsum and Friend failed to provide him adequate medical treatment in violation of the Eighth Amendment. Defendants have filed a motion for summary judgment on this claim, dkt. #75. Allowing plaintiff to amend his complaint at this late date would, at the very least, delay decision of defendants' motion and likely require defendants to file a new motion that addresses involvement of new defendants.

In addition, as plaintiff has presented his proposed amendment, it would be futile because Bittelman and Campbell would be dismissed from the case immediately. Because plaintiff is a prisoner, the court would need to screen plaintiff's amended complaint to determine whether it is frivolous or malicious, fails to state a claim on which relief may be granted or seeks money damages from a defendant who is immune from such relief. 28 U.S.C. § 1915. Plaintiff does not state a claim against Bittelman or Campbell in his proposed amended complaint. He provides no allegations regarding these defendants and does not state what his cause of action would be against them. Rather, plaintiff states only that he "has learned and has reason to believe" that Bittelman and Campbell "have

information or would be considered major participants in the action alle[ged] in the original complaint.” For the reasons above, I am denying plaintiff’s motion to amend his complaint.

ORDER

IT IS ORDERED that plaintiff Markus Gransberry’s motion for leave to amend his complaint, dkt. #71, is DENIED.

Entered this 13th day of September, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge