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

TRACY ANDERSON,

Plaintiff,

v.

WARDEN WILLIAM POLLARD *et al.*,

Defendants.

OPINION & ORDER

13-cv-627-wmc

In this civil action, plaintiff Tracy Anderson alleges that defendants at Waupun Correctional Institution ("WCI") behaved with deliberate indifference toward his knee injury in violation of the Eighth Amendment. Following screening of his complaint, Anderson was granted leave to proceed against Dr. Paul Sumnicht and Belinda Schrubbe. (Dkt. #14.) Anderson now moves to amend his complaint to add an additional defendant pursuant to Fed. R. Civ. P. 15(a) (dkt. #18), pointing out that he had named a John Doe defendant in his original complaint and has since identified that defendant as Sergeant Lentz.

The court first notes that Anderson did not, in fact, name a John Doe defendant in his original complaint, nor was he granted leave to proceed against a John Doe defendant. (*See* Compl. (dkt. #1) 2-3.) Furthermore, he previously identified Sergeant Lentz by name in his motion to show he was continually being deprived of adequate medical care (dkt. #7), which the court construed as a supplement to the complaint, yet did not seek leave to add Lentz as a defendant at that time. Thus, Anderson's current request to file an amended complaint to "reflect the identity" of Sergeant Lentz appears somewhat disingenuous.

Nevertheless, Anderson is correct that pursuant to Fed. R. Civ. P. 15(a)(2), the court should grant a party leave to amend its pleadings "freely . . . when justice so requires." In essence, Anderson seeks to add a defendant to his current suit, which he may do via Rule 15. 6 Wright, Miller & Kane, *Federal Practice and Procedure* § 1474, at 629. But when an amendment does seek to add a new party, it is appropriate for the court to consider Rule 20, relating to permissive joinder of parties, as well as Rule 15. *Chavez v. Ill. State Police*, 251 F.3d 612, 632 n.4 (7th Cir. 2001). Indeed, the Seventh Circuit has emphasized that the federal joinder rules, including Rule 20, apply to prisoners just as to other litigants. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007).

Under Rule 20, defendants may be joined in a single action if any right to relief is asserted against them with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences, *and* any question of law or fact common to all defendants will arise in the action. Fed. R. Civ. P. 20(a)(2). Here, Anderson alleges that Lentz, like Sumnicht and Schrubbe, knew of his severe knee injury and failed to provide him with adequate medical care; in Lentz's case, by ignoring his cries of pain, refusing to bring him ice despite Anderson's medical need restriction for ice and refusing to contact Health Service Unit staff. His claim against Lentz arises generally out of the same injury and course of inadequate treatment as his claims against Sumnicht and Schrubbe, and Anderson will have to prove that his knee injury constituted a "serious medical need," as required in a deliberate indifference claim, against all three defendants. Therefore, Lentz may properly be joined as a defendant in this action.[1]

[1] The court notes that all of the pleadings in the complaint are enough to state a claim for deliberate indifference against Lentz. First, the court has already inferred for screening purposes that the knee

ORDER

IT IS ORDERED that plaintiff Tracy Anderson's motion to amend his complaint (dkt. #18) is GRANTED.

Entered this 7th day of April, 2014.

BY THE COURT:

/s/

_____

WILLIAM M. CONLEY
District Judge

injury he alleges is objectively serious. Second, Anderson has alleged: (1) that Lentz actually knew of the risk of harm; and (2) that he failed to take reasonable steps to abate that risk, such as bringing Anderson the ice he requested or contacting HSU. *See Farmer v. Brennan*, 511 U.S. 825, 847 (1994).