

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

HERMAN BROWN, JR.,

Plaintiff,

v.

CAPTAIN BOODRY and
SERGEANT J. KOTTKA,

Defendants.

ORDER

14-cv-171-bbc

In this civil action, pro se plaintiff Herman Brown, Jr., a prisoner at the Columbia Correctional Institution, contends that he was sexually assaulted during a strip search in violation of the Eighth Amendment. Upon screening plaintiff's second amended complaint, I granted him leave to proceed on this claim against defendants Captain Boodry and Sergeant J. Kottka. Plaintiff has now filed a letter that I construe as a motion to supplement his second amended complaint in which he seeks to add defendants C.O. Benevetz, C.O. Johnson and C.O. Parenteau. Dkt. #32.

Plaintiff alleges that, during the strip search, two of these defendants pinned down his head and one of them touched his genitals. Dkt. #32, at 1. He says that he cannot allege which defendant did what because he could not see their faces. Id. Because plaintiff alleges that the additional defendants were directly involved in the assault for which he has stated an Eighth Amendment claim, he may also proceed on this claim against them.

Plaintiff also says that “th[ere] were 3 new Co.’s Officer Co. Ashton, Co. Roeker and Co. Kearns.” Id. at 2. However, he does not explain how these officers were involved with the strip search or any of plaintiff’s other claims. Without additional information about how these officers were personally involved in any of plaintiff’s allegations, I cannot determine whether plaintiff can proceed on any claims against them, so they will not be added to the case.

The operative pleading in this case consists of plaintiff’s second amended complaint, dkt. #30, and plaintiff’s motion to supplement his complaint, dkt. #32. In the future, plaintiff will not be permitted to file documents and supplements that add to his complaint in a piecemeal fashion. If he wishes to amend his complaint again, he must file a complaint that completely replaces the previous one, listing all defendants in the caption at the top of his proposed amended complaint and alleging all facts necessary to state his claims.

ORDER

IT IS ORDERED that

1. Plaintiff Herman Brown, Jr.’s motion to supplement his second amended complaint, dkt. #32, is GRANTED. Plaintiff is GRANTED leave to proceed on his claim for an illegal strip search under the Eighth Amendment against defendants C.O. Benevetz, C.O. Johnson and C.O. Parenteau.

2. Plaintiff’s operative pleading consists of his second amended complaint, dkt. #25, and his motion to supplement his second amended complaint, dkt. #32.

3. Plaintiff is also proceeding on his claims that (1) defendants Captain Boodry and Sergeant Kottka conducted an inappropriate manual strip search of him, in violation of the Eighth Amendment; (2) defendant Kottka used excessive force when he slammed plaintiff to the ground; and (3) defendant Kottka retaliated against plaintiff when he slammed plaintiff to the ground after learning of plaintiff's lawsuit.

4. For the time being, plaintiff must send defendants Boodry, Kottka, Benevetz, Johnson and Parenteau a copy of every paper or document that he files with the court. Once plaintiff learns the name of the lawyer who will be representing defendants, he should serve the lawyer directly rather than defendants. The court will disregard documents plaintiff submits that do not show on the court's copy that he has sent a copy to defendants or to defendants' attorney.

6. Plaintiff should keep a copy of all documents for his own files. If he is unable to use a photocopy machine, he may send out identical handwritten or typed copies of his documents.

7. Pursuant to an informal service agreement between the Wisconsin Department of Justice and this court, copies of plaintiff's complaint and this order are being sent today to the Attorney General for service on defendants Benevetz, Johnson and Parenteau. Plaintiff should not attempt to serve defendants on his own at this time. Under the agreement, the Department of Justice will have 40 days from the date of the Notice of Electronic Filing of this order to answer or otherwise plead to plaintiff's complaint if it accepts service for defendants.

8. Plaintiff is obligated to pay the unpaid balance of his filing fees in monthly payments as described in 28 U.S.C. § 1915(b)(2). The clerk of court is directed to send a letter to the warden of plaintiff's institution informing the warden of the obligation under Lucien v. DeTella, 141 F.3d 773 (7th Cir. 1998), to deduct payments from plaintiff's trust fund accounts until the filing fee has been paid in full.

Entered this 8th day of July, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge