UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JONATHAN RODEN,

Plaintiff,

v.

MICHELLE FLOYD, and
RICHARD CADY,

Defendants.
_____/

Case No. 2:16-CV-11208
District Judge Victoria A. Roberts
Magistrate Judge Anthony P. Patti

OPINION AND ORDER (1) GRANTING PLAINTIFF'S UNOPPOSED MOTION TO AMEND COMPLAINT (DE 59), (2) DIRECTING IMMEDIATE SERVICE BY THE U.S. MARSHAL, AND (3) SETTING DEADLING FOR AMENDMENT OF THE PLEADINGS

This matter is before the Court for consideration of Plaintiff Jonathan Roden's unopposed motion to file an amended complaint. (DE 59.) For the reasons that follow, Plaintiff's Motion is **GRANTED**.

I. BACKGROUND

Plaintiff, a state prisoner proceeding without the assistance of counsel, filed his complaint and application to proceed *in forma pauperis* in the Western District of Michigan on April 4, 2016. (DE 1.) The Court granted his application on the same day and transferred the case to this District. (DEs 3, 4.) Plaintiff asserted claims for retaliation under the First and Fourteenth Amendments to the United

States Constitution against three defendants, Michelle Floyd, Richard Cady and Beverly Haynes-Love, alleging that they transferred him from G. Robert Cotton Correctional Facility (JCF) to a more restrictive correctional facility and removed him from Jackson College classes because of grievances he filed regarding the education program and treatment of students. (DE 1.)

On March 15, 2018, the Court entered an Opinion and Order, adopting my Report and Recommendation, and granting in part and denying in part Defendants' motion for summary judgment. (DEs 52, 57.) Plaintiff's claims against Defendant Haynes-Love were dismissed with prejudice, and his claims against Defendants Floyd and Cady are to proceed to trial. (*Id.*)

On May 7, 2018, Plaintiff filed the instant motion to amend the complaint, in which he seeks to add two defendants, Shawn Brewer, Warden at JCF, and James Roth, Inspector at JCF, and to add an additional cause of action against all Defendants for "violation of the United States Constitution Eighth and Fourteenth Amendments and Michigan common law by civil conspiracy through concerted actions, manufacturing a false sexual harassment allegation." (DE 59.) Defendants did not file a response in opposition to Plaintiff's motion.

II. STANDARD

Under Federal Rule of Civil Procedure 15(a), a party may amend its pleadings at this stage of the proceedings only after obtaining leave of court. The

Rule provides that the Court should freely give leave for a party to amend its pleading "when justice so requires." Fed. R. Civ. P. 15(a)(2). "Nevertheless, leave to amend 'should be denied if the amendment is brought in bad faith, for dilatory purposes, results in undue delay or prejudice to the opposing party, or would be futile."' *Carson v. U.S. Office of Special Counsel*, 663 F.3d 487, 495 (6th Cir. 2011) (quoting *Crawford v. Roane*, 53 F.3d 750, 753 (6th Cir. 1995)).

In addition, the Local Rules of the Eastern District of Michigan require a party moving to amend a pleading to "attach the proposed amended pleading to the motion." E.D. Mich. LR 15.1. Any amendment to a pleading must "reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference." *Id.*

III. ANALYSIS

The Court concludes that, under the liberal amendment standard outlined in Rule 15(a)(2), Plaintiff is entitled to amend his Complaint. There is no indication that the amendment was brought in bad faith or for dilatory purposes. Nor does it appear to be prejudicial to the remaining defendants, who have chosen not to respond in opposition to the motion. Accordingly, Plaintiff's Motion (DE 59) is **GRANTED**.

In addition, Plaintiff has followed the requirements outlined in the Local Rules to "attach the proposed amended pleading to the motion." E.D. Mich. LR

15.1. (See DE 59 at Page ID 1047-1058.) Because Plaintiff is incarcerated and proceeding *pro se*, the Court will not require Plaintiff to re-file that amended complaint, but instead will treat **DE 59 at Page ID 1047-1058** as the **Plaintiff's Amended Complaint**.

Further, the U.S. Marshal is **DIRECTED** to **immediately** serve a summons and copy of the Amended Complaint (DE 59 at Page ID 1047-1058), and a copy of this Order, without prepayment of the costs of such service, upon:

1. Shawn Brewer, Warden, at G. Robert Cotton Correctional Facility (JCF), 3510 North Elm Street, Jackson, Michigan 49201; and
2. James Roth, Inspector, at G. Robert Cotton Correctional Facility (JCF), 3510 North Elm Street, Jackson, Michigan 49201

The Marshal may collect the usual and customary costs from Plaintiff after effecting service.

Finally, in light of the age of this case and the stage of the proceedings, the Court will further **ORDER** that the deadline for any party to seek leave to amend the pleadings is **Friday, September 28, 2018.**

IT IS SO ORDERED.

Dated: September 5, 2018

s/*Anthony P. Patti*
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on September 5, 2018, electronically and/or by U.S. Mail.

s/Michael Williams
Case Manager for the
Honorable Anthony P. Patti
(313) 234-5200