

1 **WO**

2

3

4

5

6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

7

8

9

David Moore, Jr.,

)

No. CV-10-0652-PHX-FJM

10

Plaintiff,

)

ORDER

11

vs.

)

12

Bruce Kanter, et al.,

)

13

Defendants.

)

14

15

16

17

On December 22, 2010, plaintiff filed a *pro se* civil rights Second Amended Complaint pursuant to 42 U.S.C. § 1983. On January 18, 2011, we issued an order under 28 U.S.C. § 1915A, directing defendants Kanter, Macabuhay and Coen to answer the Second Amended Complaint and dismissing claims against defendants Ryan and Adu-Tutu for plaintiff’s failure to state a claim against them (doc. 52). We now have before us plaintiff’s motions for reconsideration and for leave to file a third amended complaint (docs. 56 and 59).

23

A court “will ordinarily deny a motion for reconsideration of an Order absent a showing of manifest error or a showing of new facts or legal authority that could not have been brought to its attention earlier with reasonable diligence.” LRCiv 7.2(g).

26

In our order we concluded that plaintiff had failed to adequately allege that defendants Ryan and Adu-Tutu acted with deliberate indifference. We stated that “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements,” are not

27

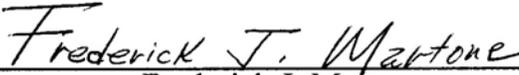
28

1 sufficient under Rule 8(a)(2), Fed. R. Civ. (doc. 52 at 2) (citing Ashcroft v. Iqbal, 129 S. Ct.
2 1937, 1949 (2009)).

3 We reiterate our conclusion that plaintiff has failed to sufficiently allege that
4 defendants Ryan and Adu-Tutu knew that plaintiff faced a substantial risk of serious harm
5 and failed to take measures to abate it. See Farmer v. Brennan, 511 U.S. 825, 837, 114 S.
6 Ct. 1970, 1979 (1994). His proposed third amended complaint does not resolve this
7 deficiency and therefore the amendment would be futile. See Townsend v. Univ. of Alaska,
8 543 F.3d 478, 485 (9th Cir. 2008).

9 Accordingly, **IT IS ORDERED DENYING** plaintiff's motions for reconsideration
10 and for leave to file a third amended complaint (docs. 56 and 59).

11 DATED this 4th day of March, 2011.

12
13 
14 _____
15 Frederick J. Martone
16 United States District Judge
17
18
19
20
21
22
23
24
25
26
27
28