

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 12-cv-01580-REB-BNB

KEVIN RAYNELL WILLIAMS,

Plaintiff,

v.

CAPTAIN KLIEN, Individually and in his official capacity as captain,
C.O. J. SANDER, Individually and in his official capacity as correctional officer,
C.O. DOCKINS, Individually and in his official capacity as correctional officer,
C.O. ROYAL, Individually and in his official capacity as correctional officer,
C.O. PRICE, Individually and in his official capacity as correctional officer, and
C.O. KOCH, Individually and in his official capacity as correctional officer,

Defendants.

ORDER

This matter arises on Plaintiff's Second Amended Complaint [Doc. #64, filed 02/07/2014] (the "Proposed Amended Complaint"). The Proposed Amended Complaint is STRICKEN.

The plaintiff states that he filed the Proposed Amended Complaint pursuant to Fed. R. Civ. P. 15(a)(1)(B). Rule 15 provides that a complaint may be amended once as a matter of course within 21 days after serving it or, "if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed.R.Civ.P. 15(a)(1)(B). "In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave." Id. at 15(a)(2).

The defendants filed a Rule 12(b) motion to dismiss on May 10, 2013. The time to amend as a matter of course expired on May 31, 2013. Therefore, the plaintiff may only amend with the opposing parties' written consent or leave of court. The plaintiff has not provided written consent from the defendants. Therefore, he must file a motion seeking leave to amend. A motion to amend must detail the proposed amendments and the reasons why the amendments are necessary and must include the proposed amended complaint as an attachment.

The Proposed Amended Complaint suffers from many deficiencies. It is not submitted on the court's standard complaint form. A *pro se* party must use the forms established by this court to file an action. D.C.COLO.LCivR 5.1(c).

The Proposed Amended Complaint attempts to reassert claims against numerous defendants that previously either were dismissed or a recommendation to dismiss is pending. The plaintiff's attempt to reassertion these claims in a proposed amended complaint is inappropriate.

In addition, the plaintiff's claims are stated in short paragraphs which lack supporting facts. The supporting facts are found in 4 pages of background facts, an attached affidavit, and an attached "Memorandum of Law in Support of Bivens Action." Thus, it is necessary to piece together facts contained in three separate documents in order to attempt to discern which facts apply to which claim, and which claim applies to which defendant(s). I will not attempt to construct the plaintiff's claims in this fashion.

Any future attempt to amend the Amended Complaint shall comply with this order. The proposed amended complaint shall be submitted on the court's form and shall be entitled Second Amended Complaint. D.C.COLO.LCivR 5.(c). The background statement shall briefly

summarize the plaintiff's case and shall not exceed one double-spaced typewritten page. Each claim shall be numbered and shall be stated separately. Each claim shall state its legal basis; identify which defendant(s) it is asserted against; and allege facts sufficient to state a plausible claim for relief against each of those defendants. Each claim shall not exceed two typewritten pages, double-spaced.

Finally, the plaintiff may not incorporate by reference previous complaints into the proposed second amended complaint. The proposed second amended complaint must stand alone; it must contain all of the plaintiff's claims. Mink v. Suthers, 482 F.3d 1244, 1254 (10th Cir. 2007) (stating that "an amended complaint supercedes an original complaint and renders the original complaint without legal effect") (internal quotations and citations omitted).

IT IS ORDERED:

1. The Proposed Amended Complaint [Doc. #64] is STRICKEN; and
2. Any future attempts to amend the Complaint shall comply with the Federal Rules of Civil Procedure, the local rules of this court, and this order.

Dated February 20, 2014.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge