

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JACOB LEE INGERSOLL,)
)
Plaintiff,)
)
v.)
)
WARDEN OF MENARD CORRECTIONAL)
CENTER and OFFICER JOHN/JANE DOE,)
)
Defendants.)

Case No. 3:17-cv-46-NJR-DGW

ORDER

WILKERSON, Magistrate Judge:

Now pending before the Court are the Motion to Amend (Doc. 26) and the Motion to Substitute party (Doc. 27) filed by Plaintiff, Jacob Lee Ingersoll. The Motions are **GRANTED IN PART**.

Plaintiff originally sued unknown parties and was directed by the District Court to file a motion to substitute parties, naming the individual defendant(s) he seeks to sue. Plaintiff has complied with that Order and also has submitted a proposed amended complaint setting forth claims against the newly named Defendants. The proposed amended complaint is substantially similar to the original complaint. Defendant (Warden) has not objected. In light of the liberal amendment standard contained in Federal Rule of Civil Procedure 15, the Clerk of Court is **DIRECTED** to file Plaintiff’s amended complaint forthwith (attachment to Doc. 26).

Consistent with the February 7, 2017 Order referring this matter (Doc. 5), Plaintiff is proceeding on only one count:

Count 1 - Eighth Amendment claim against Officers Todd Cowell and Bryan Nordin for failing to protect Plaintiff from the inmate attack that occurred on April 17, 2015.

Even though Plaintiff names former defendant Phelps and the same facts that were construed as Counts 2, 3, and 4 in the amended complaint, that defendant and those claims were dismissed by the February 7, 2017 Order. Plaintiff has not added any additional information that would warrant the reinstatement of Phelps, Count 2, or Count 3, which were dismissed without prejudice.¹

IT IS FURHER ORDERED that the Clerk of Court shall prepare for Defendants **TODD COWELL and BRYAN NORTIN**: (1) Form 5 (Notice of a Lawsuit and Request to Waive Service of a Summons), and (2) Form 6 (Waiver of Service of Summons). The Clerk is **DIRECTED** to mail these forms, a copy of the complaint, and this Memorandum and Order to the Defendant's place of employment, the Menard Correctional Center. If Defendants fail to sign and return the Waiver of Service of Summons (Form 6) to the Clerk within 30 days from the date the forms were sent, the Clerk shall take appropriate steps to effect formal service on them, and the Court will require that they pay the full costs of formal service, to the extent authorized by the Federal Rules of Civil Procedure.

If Defendants no longer can be found at the Menard Correctional Center, the employer shall furnish the Clerk with the Defendants' current work address, or, if not known, the Defendants' last-known address. This information shall be used only for sending the forms as directed above or for formally effecting service. Any documentation of the address shall be retained only by the Clerk. Address information shall not be maintained in the court file or disclosed by the Clerk.

DATED: December 1, 2017



DONALD G. WILKERSON
United States Magistrate Judge

¹ Count 4 was dismissed with prejudice.