

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

JULIUS WASHINGTON,)	
)	
Plaintiff,)	
)	
v.)	Case No.17-979-SMY-RJD
)	
WILLIAM HARRIS, et al.,)	
)	
Defendants.)	

ORDER

DALY, Magistrate Judge:

This matter is before the Court on Plaintiff’s Motion for Leave to File an Amended Complaint (Doc. 17). Defendants did not file an objection. For the reasons set forth below, the Motion is **GRANTED**.

Plaintiff, an inmate in the custody of the Illinois Department of Corrections (“IDOC”), filed this lawsuit pursuant to 42 U.S.C. §1983 alleging his constitutional rights were violated while he was incarcerated at Pinckneyville Correctional Center (“Pinckneyville”). Plaintiff is currently proceeding on one claim:

Count 1: Defendants Harris and Lashbrook subjected Plaintiff to unconstitutional conditions of confinement in violation of the Eighth Amendment when they failed to remedy the dangerous condition of the kitchen water grates that caused Plaintiff’s injury.

Federal Rule of Civil Procedure 15(a) provides that a party may amend a pleading and that leave to amend should be freely given "when justice so requires." The Seventh Circuit maintains a liberal attitude toward the amendment of pleadings "so that cases may be decided on the merits and not on the basis of technicalities." *Stern v. U.S. Gypsum, Inc.*, 547 F.2d 1329, 1334 (7th Cir. 1977). The Circuit recognizes that "the complaint merely serves to put the defendant on notice

and is to be freely amended or constructively amended as the case develops, as long as amendments do not unfairly surprise or prejudice the defendant." *Toth v. USX Corp.*, 883 F.2d 1297, 1298 (7th Cir. 1989); *see also Winger v. Winger*, 82 F.3d 140, 144 (7th Cir. 1996). A court may also deny a party leave to amend if there is undue delay, dilatory motive or futility. *Guise v. BMW Mortgage, LLC*, 377 F.3d 795, 801 (7th Cir. 2004).

Plaintiff seeks leave to amend his complaint to add two defendants to his Eighth Amendment claim: John Doe, the "Head of Maintenance" at Pinckneyville and CFFS Wilson, the acting Food Supervisor at Pinckneyville. The motion is timely filed and will not prejudice the defendants. Accordingly, Plaintiff's motion is granted.

Plaintiff will be allowed to proceed with his claim against the unknown Pinckneyville Defendant John Doe (Head of Maintenance). However, this party must be identified with particularity before service of the complaint can be made. Where a prisoner's complaint states specific allegations describing conduct of individual prison staff members sufficient to raise a constitutional claim but the names of those defendants are not known, the prisoner should have the opportunity to engage in limited discovery to ascertain the identity of those defendants. *Rodriguez v. Plymouth Ambulance Serv.*, 577 F.3d 816, 832 (7th Cir. 2009).

For the foregoing reasons, Plaintiff's Motion for Leave to File an Amended Complaint (Doc. 17) is **GRANTED**. The Clerk of Court is **DIRECTED** to file the Amended Complaint. The Clerk of Court shall prepare for Defendant **CFFS Wilson**: (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 Order to the Defendant's place of employment as identified by Plaintiff. If this Defendant fails 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 him, and the Court will require him to pay the full costs of formal service, to the extent authorized by the Federal Rules of Civil Procedure.

With respect to a Defendant who no longer can be found at the work address provided by Plaintiff, the employer shall furnish the Clerk with the Defendant's current work address, or, if not known, the Defendant's 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.

Defendants are **ORDERED** to timely file an appropriate responsive pleading to the First Amended Complaint and shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g).

IT IS SO ORDERED.

DATED: February 22, 2018

s/ Reona J. Daly

Hon. Reona J. Daly
United States Magistrate Judge