

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RAFAEL R. TORRES,)	
)	
Plaintiff,)	
)	
v.)	No. 1:17-cv-01522-TWP-DML
)	
C.A. PENFOLD, PAUL PRULHIERE,)	
ROACH LT.,)	
)	
Defendants.)	

**Entry Dismissing “Amended Claim” of August 30, 2017,
and Directing Filing of Second Amended Complaint**

Plaintiff Rafael Torres commenced this 42 U.S.C. § 1983 action on May 9, 2017. Following screening pursuant to 28 U.S.C. § 1915A, the complaint was dismissed against proposed defendant Stanley Knight, Superintendent of the Pendleton Correctional Facility, because no personal involvement in the actions giving rise to the lawsuit was alleged. The case was allowed to proceed against the other three named defendants.

Torres sought reconsideration, seeking to reinstate his claim against Knight and add a claim against Assistant Superintendent Kevin Hartzell on the grounds that each, because of their management involvement, had to have been knowledgeable about Torres’ placement within the prison. That placement occurred after Torres informed defendants that he would be in danger. Torres asserts that he was, in fact, beaten by other inmates. The Court granted reconsideration and directed Torres to file an amended complaint that contained all of his claims.

On August 30, 2017, Torres filed an “amended claim.” Dkt. 35. This filing describes why Torres believes he has a claim against Knight and Hartzell, and the other defendants, but otherwise does not comply with Fed. R. Civ. P. 8(a). The proposed complaint is not a “short and plain”

statement of his claims that shows entitlement to relief, and nowhere does it contain a demand for relief. At fifteen pages, the document is more a brief on the merits than an amended complaint.

Torres shall have through **October 6, 2017**, in which to file a **second amended complaint** that complies with Fed. R. Civ. P. 8(a). If filed, it will be screened pursuant to 28 U.S.C. § 1915A. Following screening, if the second amended complaint is allowed to proceed, it will supersede and replace the original complaint. If a second amended complaint is not filed by **October 6, 2017**, the original complaint filed May 9, 2017, will become the operative complaint.

Torres may find it helpful to use the same form complaint he used when he initiated this action. **The clerk is directed** to send Torres a blank complaint form with his copy of this Entry.

IT IS SO ORDERED.

Date: 9/15/2017



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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