

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID BOWEN,

Plaintiff,

Case Number: 09-10414

v.

HONORABLE AVERN COHN

RICHARD CADY and V. McCABE,

Defendants.

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**ORDER DENYING**  
**PLAINTIFF'S MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT AS MOOT**

This is a prisoner civil rights case under 42 U.S.C. § 1983 claiming violations of the Eighth Amendment. Plaintiff's claim stemmed from him falling down 26 steps while being moved to an upper floor cell and injuring his back. The matter was referred to a magistrate judge for all pre-trial proceedings.<sup>1</sup> Defendants filed a motion for summary judgment on the grounds that plaintiff failed to exhaust his administrative remedies and failed to establish personal involvement by defendants. The magistrate judge issued a report and recommendation (MJRR) recommending that the motion be granted. Plaintiff did not object to the MJRR. Accordingly, the Court adopted the MJRR, granted defendants' motion for summary judgment and dismissed the case. See Order filed January 13, 2010.

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<sup>1</sup>As noted by the magistrate judge, plaintiff filed a separate case against different defendants arising out of the same incident. That case is currently pending and is assigned to the undersigned. Bowen v. Caruso, 08-12877.

Before the Court is plaintiff's motion for leave to file an amended complaint, filed January 29, 2010, in which he appears to say that he did not name the proper defendants. Because this case is closed, the motion is DENIED AS MOOT. Moreover, to the extent plaintiff asks for reconsideration of the dismissal, his paper fails to convince the Court that it erred in granting summary judgment to defendants.

SO ORDERED.

s/ Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: February 9, 2010

I hereby certify that a copy of the foregoing document was mailed David L. Bowen, 2123 Mill Road, Flint, MI 48532 and to the attorneys of record on this date, February 9, 2010, by electronic and/or ordinary mail.

s/ Julie Owens  
Case Manager, (313) 234-5160