

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOSEPH X. SMITH,)
Plaintiff,)
v.)
JULIE INMAN, et al.,)
Defendants,)
No. 4:15CV1297 RLW

MEMORANDUM AND ORDER

Plaintiff moves for relief from judgment, or in the alternative, to amend his complaint.

The motion is denied.

Plaintiff is confined in the Southeast Missouri Department of Mental Health. Julie Inman is the Regional Medical Director, and Dr. Veera N. Reddy is plaintiff's treating psychiatrist. Plaintiff brought suit under 42 U.S.C. § 1983 alleging that Dr. Reddy has been mistreating him and that Inman has not maintained an adequate law library. The Court dismissed Inman from the complaint because plaintiff did not allege that he suffered an actual legal harm as a result of the deficient law library. *See Myers v. Hundley*, 101 F.3d 542, 544 (8th Cir. 1996).

In his motion, plaintiff alleges that he was unable to appeal the denial of his habeas case because of the deficient law library. However, because the allegation was not included in the complaint itself, there is no reason for the Court to overturn the dismissal.

Likewise, there is no reason to grant plaintiff's request to file a motion to amend. To obtain leave to file an amended complaint, "a party must submit the proposed amendment along with its motion." *Clayton v. White Hall School Dist.*, 778 F.2d 457, 460 (8th Cir. 1985); *see also Wolgin v. Simon*, 722 F.2d 389, 395 (8th Cir. 1983). Amendment by interlineation is prohibited.

If plaintiff wishes to amend his complaint, he must file a motion to amend along with a proposed amended complaint.

The Court will direct the Clerk to send plaintiff a § 1983 complaint form. **Plaintiff is warned that the filing of an amended complaint replaces the original complaint, and so he must include each and every one of his claims in the amended complaint.** *E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). **Any claims from the original complaint that are not included in the amended complaint will be considered abandoned.** *Id.* In order to sue defendants in their individual capacities, plaintiff must specifically say so in the complaint.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for relief from judgment, or in the alternative, to amend his complaint [ECF No. 9] is **DENIED**.

IT IS FURTHER ORDERED that the Clerk is directed to send plaintiff a § 1983 complaint form.

Dated this 21st day of September, 2015.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE