

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ARTHUR EBERT,	)	4:11CV3139
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
RICK HARGREAVES, et al.,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff’s Motion to Reconsider. (Filing No. [17](#).) In Plaintiff’s Motion, he asks the court to reconsider its February 28, 2012, Order and Judgment. (Filing Nos. [15](#) and [16](#).) Specifically, Plaintiff asks the court to reopen this matter to allow him to amend his Complaint to sue Defendants in their individual capacities. (Filing No. [17](#) at CM/ECF p. 1.) The court dismissed Plaintiff’s Complaint without prejudice because it determined that (1) Plaintiff’s monetary damages claims against Defendants were barred by the Eleventh Amendment, (2) Plaintiff failed to state an Eighth Amendment medical claim upon which relief may be granted, and (3) Plaintiff had failed to plead facts showing he was entitled to relief on a constitutional right to privacy claim. (Filing No. [15](#) at CM/ECF pp. 4-5.)

The court has carefully reviewed Plaintiff’s Motion and its order dismissing Plaintiff’s Complaint. The court finds that allowing Plaintiff to amend his Complaint to sue Defendants in their individual capacities would be futile<sup>1</sup> because it is apparent that Plaintiff’s claim of inadequate medical care fails to meet the requirements of an actionable Eighth Amendment violation. In addition, Plaintiff’s claims that a prison doctor spoke about his back pain in front of other inmates does not state a constitutional violation. For the reasons set forth in the court’s February 28, 2012, Memorandum and Order,

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<sup>1</sup>The court notes that Plaintiff did ask to amend any other part of his Complaint. (See Filing No. [17](#).)

IT IS THEREFORE ORDERED that: Plaintiff's Motion to Reconsider (Filing No. [17](#)) is denied.

DATED this 20<sup>th</sup> day of April, 2012.

BY THE COURT:

*Richard G. Kopp*

Senior United States District Judge

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