

Motion to Dismiss his FTCA claim. (See Filing [66](#) at CM/ECF pp. 29-30.) Thus, Plaintiff had notice of the exhaustion issue, and the opportunity to counter Jarzynka and Jones' argument, but he chose not to do so until after his FTCA claim was dismissed.

Second, even if I were to consider the unauthenticated documents that Plaintiff submitted, those documents do not show that Plaintiff filed an administrative tort claim with the U.S. Marshal Service. Accordingly, Plaintiff's first Motion for a New Ruling (filing [90](#)) is denied.

In his second and third Motions for a new ruling, Plaintiff reasserts his claim that Defendants unlawfully arrested him. (Filings [91](#) and [92](#).) I addressed this claim in my September 30, 2014, Memorandum and Order and I decline to do so again. (See Filing [87](#).) Plaintiff's second and third Motions for a New Ruling (filings [91](#) and [92](#)) are therefore denied.

II. Motion for Leave to Amend

On November 21, 2014, Plaintiff filed a Motion for Leave to file a third amended complaint. (Filing 99.) [Rule 15\(a\) of the Federal Rules of Civil Procedure](#) provides that courts should freely give a party leave to amend when justice so requires. The applicable standard is summarized in [Foman v. Davis, 371 U.S. 178, 182 \(1962\)](#), which states:

If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claims on the merits. In the absence of any apparent reason—such as undue delay, bad faith or dilatory motive on the part of the movant, . . . undue prejudice to the opposing party by virtue of the allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be freely given.

Id. (internal quotations omitted).

In the Motion, Plaintiff asks the court to hold Defendants “Jarzynka, Jones and Anderson” liable for claims he previously asserted in prior complaints. (*See* Filing [99](#); *see also* Filings [1](#), [14](#), and [16](#).) Plaintiff also asserts that “nothing has been argued or discussed” regarding his unlawful extradition and excessive force claims. (Filing [99](#).) Plaintiff attaches a proposed amended complaint seeking to add allegations against the United States Marshal Service for its involvement in his alleged unlawful arrest. (Id.)

I have carefully reviewed Plaintiff’s Motion for Leave to file a third amended complaint. Again, I have already concluded that Plaintiff failed to state an unlawful arrest claim upon which relief may be granted. (Filing [87](#).) Plaintiff’s proposed addition of the United States Marshal Service as a defendant for that claim, and his reasserted allegations, do not change that result. (*See Id.* at CM/ECF p. 7 (finding Plaintiff was arrested on a valid outstanding Iowa warrant by duly authorized federal officers under the supervision of the U.S. Marshal Service [Neb. Rev. Stat. § 29-742](#) (“The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year.”))). My September 30, 2014, Memorandum and Order also dismissed Plaintiff’s improper extradition claims against Jarzynka and Jones. (*See* Filing [87](#) at CM/ECF p. 8.) Plaintiff’s proposed amendment does nothing to change that analysis.¹ (*See* Filing [99](#).) In light of these findings, Plaintiff’s proposed amendment would be futile and his Motion for Leave to Amend is denied.

¹I note that Plaintiff’s excessive force claims against Jarzynka and Jones, and his improper extradition claims against Eric Rogers and Steve Barrier, remain pending. (*See* Filing [87](#).)

Moreover, Plaintiff is warned that if he continues to file meritless motions, he could be subject to sanctions, including, but not limited to, dismissal of this matter or being enjoined from filing any further pleadings, motions, or other items in this matter without prior authorization from this court. Indeed, the Eighth Circuit has held that litigants who have abused the judicial system may be enjoined from filing future litigation. See [*In re Tyler*, 839 F.2d 1290, 1292 \(8th Cir. 1988\)](#) (recognizing that there is “no constitutional right of access to the courts to prosecute an action that is frivolous or malicious” and that “[f]rivolous, bad faith claims consume a significant amount of judicial resources, diverting the time and energy of the judiciary away from processing good faith claims” (citations omitted)). “The Court may, in its discretion, place reasonable restrictions on any litigant who files non-meritorious actions for obviously malicious purposes and who generally abuses judicial process.” *Id.* (citations omitted).

IT IS THEREFORE ORDERED that Plaintiff’s Motions for New Ruling (filings [90](#), [91](#), and [92](#)) and Motion for Leave to file an amended complaint (filing [99](#)) are denied.

DATED this 26th day of November, 2014.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge

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