

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ERNELL HAILES,

Plaintiff,

v.

Civil Action 2:12-cv-00687

Judge Michael H. Watson

Magistrate Judge Elizabeth P. Deavers

MR. COLLIER, *et al.*

Defendants.

OPINION AND ORDER

This matter is before the Court for consideration of Plaintiff's Response to the Court's January 27, 2014 Order allowing limited discovery under Federal Rule of Civil Procedure 56(d). (ECF No. 41.) In its Order, the Court determined that Plaintiff was entitled to the discovery he requested in his November 12, 2013 Motion for Leave for Further Discovery. (ECF No. 41.) The Court was unable to discern, however, if the Defendants had provided the document Plaintiff had requested. (Op. and Order 3, ECF No. 40.) The Court therefore directed Plaintiff to clarify whether the document attached as Exhibit C to Defendants' Motion for Summary Judgment was the document Plaintiff requested. (*Id.* at 6.) The Court also denied Defendants' Motion for Summary Judgment without prejudice to re-filing after completion of the limited discovery.

In Plaintiff's Response, he represents that the document attached as Exhibit C to Defendants' Motion for Summary Judgment is the document he sought in his discovery motion. (ECF No. 41.) The Court, therefore, **DIRECTS** Defendants to re-file or supplement their Motion for Summary Judgment **ON OR BEFORE MARCH 21, 2014**. Any further briefing should be filed in accordance with Southern District of Ohio Local Civil Rule 7.2(a)(2).

This matter is further before the Court for consideration of Plaintiff's Motion to Add as a Party Lieutenant Shane Clark. (ECF No. 45.) The Court construes this as a Motion to add Lieutenant Clark as a Defendant under Federal Rule of Civil Procedure 20(a)(2). In his Motion, Plaintiff asserts that on March 29, 2013, Lieutenant Clark placed him in segregation for ten days for no reason after Plaintiff requested to move bunks. For the reasons that follow, Plaintiff's Motion is **DENIED**.

Federal Rule of Civil Procedure 20 permits joinder of defendants in one action if claims arise out of the "same transaction [or] occurrence" and "any question of law or fact common to all defendants will arise in the action." Fed. R. Civ. P. 20(a)(2); *see also Arista Records, LLC v. Does 1-9*, No. 2:07-cv-961, 2008 WL 2982265, at *8 (S.D. Ohio July 29, 2008) ("For proper joinder of multiple parties, both requirements of Rule 20(a) must be satisfied . . ."). "In making a joinder decision, the district court is guided by the underlying purpose of joinder, which is to promote trial convenience and expedite the resolution of disputes, thereby eliminating unnecessary lawsuits." *Damron v. Sims*, No. 2:09-CV-050, 2010 WL 4809090, at *1 (S.D. Ohio Nov. 17, 2010) (quoting *Swan v. Ray*, 293 F.3d 1252, 1253 (11th Cir. 2002)).

Plaintiff's claims against Lieutenant Clark do not arise out of the same transaction or occurrence as his claims against the current Defendants. Plaintiff's claims against the current Defendants arise out of an incident that occurred on January 14, 2012, in which Plaintiff asserts that Lieutenant Collier and Officer Elam took an adverse action against him for refusing to work on his Sabbath. Plaintiff does not assert that Lieutenant Clark retaliated against him for exercising his religion or for filing his pending lawsuit against the current Defendants. Nor does Plaintiff assert that Lieutenant Clark's actions had anything to do with the claims he asserts against the current Defendants. Moreover, the situation he describes with Lieutenant Clark

occurred over a year after the incident in which he asserts that the current Defendants retaliated against him. *See Ratcliff v. Moore*, 614 F. Supp. 880, 888 (S.D. Ohio 2009) (finding that plaintiff failed to meet the “same transaction or occurrence” requirement under Rule 20 where he attempted to add a new party based on an incident that took place a year after the initial incident in which his injury arose); *Kunin v. Costco Wholesale Corp.*, No. 10-11456, 2011 WL 6090132, at *3 (E.D. Mich. Dec. 7, 2011) (“When claims involve different conduct during different time periods, they should not be tried together”).

Further, there no questions of law or fact are common to the current Defendants and Lieutenant Clark. Adding Lieutenant Clark as a Defendant in this lawsuit will not promote trial convenience or expedite the resolution of the pending dispute. The Court therefore **DENIES** Plaintiff’s Motion to Add as Party Lieutenant Shane Clark. (ECF No. 45.)

IT IS SO ORDERED.

Date: February 21, 2014

/s/ Elizabeth Preston Deavers

Elizabeth Preston Deavers

United States Magistrate Judge