

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JAMES LEE CECIL, JR.,)	
Plaintiff,)	Civil Case No. 7:21-cv-00279
)	
v.)	
)	By: Elizabeth K. Dillon
DR. CHARLES HULBERT, <i>et al.</i> ,)	United States District Judge
Defendants.)	

MEMORANDUM OPINION

James Lee Cecil, Jr., a Virginia inmate proceeding *pro se*, has filed a complaint under 42 U.S.C. § 1983. Pending before the court is Cecil’s motion to amend (Dkt. No. 10), which will be granted, making the operative complaint the amended complaint (Dkt. No. 10-1). The Clerk will be directed to ensure that the docket so reflects and to update the docket to contain all four defendants listed in Cecil’s amended complaint.

The matter also is before the court for screening pursuant to 28 U.S.C. § 1915(e)(2), which requires the court to dismiss any case in which a plaintiff is proceeding *in forma pauperis* if the action is frivolous or fails to state a claim on which relief can be granted. *See also* 28 U.S.C. § 1915A(a) (requiring similar screening in actions where a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity).

In his amended complaint, Cecil names four defendants: Dr. Charles Hulbert, N.P. Crystal Large, Mediko Inc., and John Doe #1. Cecil’s allegations in his amended complaint, however, overlap considerably with those he has raised in another pending suit before this court, *Cecil v. Koscinski*, No. 7:18-cv-00641 (W.D. Va.). In short, both lawsuits involve defendants’ alleged failure to treat his hepatitis C while he was incarcerated at the Southwest Virginia Regional Jail in Haysi and then in Duffield. Large is also a defendant in that earlier suit, and the claims against her in this action are duplicative of the claims there.

Cecil has no right to pursue two lawsuits containing the same claims against the same defendant at the same time. Bey v. Virginia, No. 1:13cv102, 2014 WL 12607846, at *1 (E.D. Va. Jan. 31, 2014) (“Plaintiffs have no right to ‘maintain two separate actions involving the same subject matter at the same time . . . against the same defendant[s].’”) (citation omitted); *see also* Watson v. Clarke, No. 7:21-CV-00049, 2021 WL 439935, at *2 (W.D. Va. Feb. 8, 2021) (noting same and dismissing case that was duplicative of other case pending before the court). Thus, the court will dismiss without prejudice all claims against Large in this action. *See Sherron v. Perry*, No. 1:15-CV-276-FDW, 2016 WL 407303, at *2 (W.D.N.C. Feb. 2, 2016) (dismissing new lawsuit where it contained claims duplicative of claims in other pending lawsuit). Cecil may continue to prosecute his claims against Large in the earlier filed action, No. 7:18-cv-641.

As to the remaining defendants, the court will direct the Clerk to effect service on them. An appropriate order will be issued.

Entered: September 7, 2021.

/s/ Elizabeth K. Dillon

Elizabeth K. Dillon
United States District Judge