

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JEROME CEASAR ALVERTO,  
Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,  
C/O FINCH, C/O PERCIFIELD, C/O  
GRIJALVA, SGT. C. ROOP,  
HERBERT C. PENROSE, MICHAEL  
ESTES, KRISTI ENTROP, DR.  
JUGUILON, STEPHEN SINCLAIR,  
RAYMOND BUCHMANN, C/O  
ADAMIRE, RON FRAKER, ROB  
JACKSON, COUNSELOR WALKER,  
KURT GRUBB, C/O DELEON, C/O  
PALMER, JASON ROMERO, ADELE  
WILLIAMS, BRYAN MCGARVIE,  
DARREN HEAWARD, DENISE  
LARSON, LT. TOM TABER, JASON  
ULRICH, and STATE OF  
WASHINGTON,  
Defendants.

NO. C11-5572 RJB/KLS

ORDER DENYING PLAINTIFF'S  
MOTION TO WITHDRAW  
ORIGINAL COMPLAINT AND  
GRANTING EXTENSION

Before the Court are Plaintiff's motions to amend and for an extension of time. ECF Nos. 8 and 9. For the reasons stated below, the motion to amend is denied and Plaintiff is granted an extension of time to provide the Court with copies of his complaint and addresses for the Defendant.

1 **BACKGROUND**

2 Mr. Alverto filed his motion for leave to proceed *in forma pauperis* and a proposed  
3 civil rights complaint on July 25, 2011. ECF No. 1. On July 28, 2011, that motion was  
4 granted and the Clerk docketed the complaint. ECF Nos. 5 and 6. By letter dated July 27,  
5 2011, the Clerk directed Plaintiff to provide addresses for each named defendant and copies of  
6 the complaint for service on the defendants. ECF No. 4. Plaintiff was given a deadline of  
7 August 29, 2011 to provide the needed addresses and copies of the complaint so that the Court  
8 could serve the complaint on the named defendants. *Id.*

9  
10 On August 10, 2011, Plaintiff filed the motions to amend and for an extension of time.  
11 ECF Nos. 8 and 9. He states that he has “become confused with the assigning of 2 different  
12 case numbers to the original complaint.” ECF No. 8, p. 2. He requests leave to withdraw his  
13 complaint and submit an amended complaint, which is to include copies of the complaint for  
14 each defendant, summons for each defendant and marshal forms. *Id.* Plaintiff also requests a  
15 thirty day extension of time to comply with the Clerk’s request to provide addresses for the  
16 named defendants. ECF No. 9. Plaintiff has not submitted a proposed amended complaint for  
17 the Court’s review. On August 19, 2011, Plaintiff submitted addresses and marshal forms for  
18 24 defendants.  
19

20 **DISCUSSION**

21 Pursuant to Federal Rule of Civil Procedure (“Fed. R. Civ. P.”) 15(a)(1), “[a] party  
22 may amend its pleading once as a matter of course within (A) 21 days after serving it, or (B) if  
23 the pleading is one to which a responsive pleading is required, 21 days after service of a  
24  
25  
26

1 responsive pleading or 21 days after service of a motion under Rule 12(b), (e) or (f),  
2 whichever is earlier.”

3           Plaintiff’s original complaint has not yet been served because Plaintiff has not yet  
4 provided the Court with addresses for the Defendants. Plaintiff appears to be confused by the  
5 assignment of a case number to this case and the Clerk’s directive that he provide service  
6 addresses. There are not two case numbers for Plaintiff’s complaint. The Clerk originally  
7 assigned a tracking number (P#1572) to Plaintiff’s correspondence received by the Clerk from  
8 Plaintiff before Plaintiff had ever filed a complaint. ECF No. 8, p. 4. After Plaintiff filed his  
9 application to proceed *in forma pauperis* and a complaint, the Clerk assigned the Case  
10 Number C11-5572RJB/KLS to this case and advised Plaintiff accordingly. ECF No. 4.

11           Plaintiff did not submit a proposed amended complaint for the Court’s review. It does  
12 not appear that he wishes to amend his complaint in any substantive way (by adding  
13 defendants or claims) but instead, wants to withdraw his complaint and then resubmit it as an  
14 amended complaint, along with the required information for service. This is not necessary.  
15 Plaintiff simply needs to provide the Court with a list of addresses for each of the defendants  
16 listed on his complaint. Plaintiff also needs to make 26 copies of his 127 page complaint so  
17 that the Court may direct service of the complaint on each of the Defendants. The Court will  
18 grant Plaintiff an extension of time to do this.

19           If Plaintiff truly wishes to amend his complaint to add claims or defendants, he will  
20 need to first provide the Court with a full copy of his amended complaint so that the Court  
21 may review it. The filing of an amended complaint supersedes the original in its entirety.  
22 This means that the original will be as if it never existed. Thus, if Plaintiff wishes to amend  
23  
24  
25  
26

1 his complaint, he must set forth all of the parties, claims and damages in a proposed amended  
2 complaint and submit it for the court's review. The amended complaint must be complete in  
3 itself without reference to the original complaint.

4 Accordingly, it is **ORDERED**:

5 (1) Plaintiff's motion to amend (ECF No. 8) is **DENIED**.

6 (2) Plaintiff's motion for an extension of time (ECF NO. 9) is **GRANTED**;

7 Plaintiff shall submit addresses for each of the listed defendants and 26 copies of his  
8 complaint (with attachments), **on or before September 30, 2011**.

9 **DATED** this 30th day of August, 2011.

10  
11  
12   
13 Karen L. Strombom  
14 United States Magistrate Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26