

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 DEANGELO A. GREEN,

11 Plaintiff,

12 v.

13 MARGARET GILBERT, et al.,

14 Defendants.

CASE NO. 3:17-cv-05898-RBL-DWC

ORDER GRANTING IN PART
MOTION TO AMEND AND
DENYING MOTION TO ADD
EXHIBITS

15
16 The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States
17 Magistrate Judge David W. Christel pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), and local
18 Magistrate Judge Rules MJR1, MJR3 and MJR4.

19 Plaintiff has filed a Motion to Amend, an Amended Motion to Amend, and a Motion to
20 Add Exhibits. Because Defendants do not oppose the Motion to Amend, the Court grants it.
21 However, because the Amended Motion to Amend is moot and additional exhibits are not
22 necessary at this stage in the proceedings, the Court denies the Amended Motion to Amend and
23 Motion to Add Exhibits.

24
ORDER GRANTING IN PART MOTION TO
AMEND AND DENYING MOTION TO ADD
EXHIBITS - 1

1 **BACKGROUND**

2 Plaintiff originally filed this action in October of 2017. Dkt. 1. Pursuant to an order from
3 this Court, Plaintiff filed an Amended Complaint in December of 2017. Dkt. 12. After asking
4 permission from the Court (Dkt. 14), Plaintiff filed a Second Amended Complaint in January of
5 2018 (Dkt. 18). The Court directed service and Defendants filed an Answer. Dkt. 48.

6 While Defendants’ Answer was pending, Plaintiff filed three motions. Dkts. 39, 41, 43.¹
7 He first moved to attach exhibits to his Second Amended Complaint. Dkt. 39. He then filed a
8 Motion to Amend his Second Amended Complaint (“Motion”), including a Third Amended
9 Complaint and a series of exhibits. Dkt. 41. He then filed a letter asking the Court to disregard
10 his Motion. Dkt. 42. Plaintiff subsequently filed an Amended Motion to Amend his Second
11 Amended Complaint (“Amended Motion”), containing identical verbiage to the first but with
12 additional attachments and a second copy of his Third Amended Complaint. Dkt. 43. Defendants
13 responded, requesting the Court grant Plaintiff’s Amended Motion, but instruct him to file only
14 the Third Amended Complaint. Dkt. 47. Defendants further urge the Court to deny his Motion
15 (Dkt. 41) as moot due to his letter to disregard and the subsequent Amended Motion, and to deny
16 his Motion to Attach Exhibits (Dkt. 39) because exhibits are not a necessary part of the pleadings
17 at this time.

18 **DISCUSSION**

19 **I. Amended Motion to Amend**

20 As a matter of course, a party may amend its pleading once within 21 days of serving it
21 or, if it is a pleading requires a response, within 21 days after service of the response. Fed. R.
22 Civ. Proc. 15(a)(1). In all other cases, “a party may amend its pleading only with . . . the court’s

23 _____
24 ¹ The Court notes there is another pending motion (Dkt. 44), which Judge Leighton will decide separately.

1 leave.” *Id.* (a)(2). “The court should freely give leave when justice so requires.” *Id.* Here,
2 Plaintiff has requested permission from the Court and Defendants do not oppose Plaintiff’s
3 Amended Motion. Dkts. 43, 47. Therefore, Plaintiff’s Amended Motion (Dkt.43) is granted.
4 Plaintiff may file his Third Amended Complaint on or before May 18, 2018, and should file only
5 his Complaint, omitting any attachments or exhibits for reasons the Court will explain in section
6 III *infra*.

7 **II. Motion to Amend**

8 Plaintiff filed this Motion requesting leave to amend, but subsequently filed a letter
9 asking the Court to ignore it before filing his Amended Motion. The Court has now provided
10 Plaintiff leave to amend, so the Court denies his Motion (Dkt. 41) as moot.

11 **III. Motion to Add Exhibits**

12 Plaintiff requests permission to file additional exhibits with his amended complaints.
13 However, as Defendants properly note, the Federal Rules of Civil Procedure only requires a short
14 and plain statement with a demand for the relief sought and does not require additional evidence
15 or exhibits at this time. Fed. R. Civ. P. 8. Therefore, the Court denies Plaintiff’s Motion to Add
16 Exhibits (Dkt. 39) because exhibits are unnecessary, and indeed undesirable, at this stage in the
17 proceeding.

1 **CONCLUSION**

2 For the reasons stated above, Plaintiff’s Amended Motion (Dkt. 43) is granted in part.
3 Plaintiff may file a Third Amended Complaint on or before May 18, 2018. Plaintiff’s Motion
4 (Dkt. 41) and Motion to Attach Exhibits (Dkt. 39) are denied.

5 Dated this 16th day of April, 2018.

6 

7 David W. Christel
8 United States Magistrate Judge