

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MILTON MCDANIEL,

Plaintiff,

v.

Case No. 17-cv-91-pp

DOYAL JOHNSON,

Defendant.

**DECISION AND ORDER DENYING
THE PLAINTIFF'S MOTION (DKT. NO. 46)**

On October 23, 2017, the court granted the defendant's motion for summary judgment and dismissed the case. Dkt. No. 43. The court explained that the plaintiff did not have any claims against the only named defendant in the case (Doyal Johnson), and that the plaintiff would have to file a new lawsuit if he wanted to proceed with claims against other individuals who he had not named as defendants. Id.

A week later, the court received a motion from the plaintiff. Dkt. No. 46. The caption includes Johnson and nine additional defendants. Id. The body of the motion reiterates many allegations the plaintiff made in prior filings, including: the plaintiff received someone else's prescription medication; he has been vomiting and having stomach pains as a result of getting the wrong medication; different officers have been refusing to answer his "emergency call button" because they think that the plaintiff is "playing around;" a nurse laughed at the plaintiff because he had thrown up from getting the wrong

medication; and only a licensed medical professional should be distributing prescription medication. Id.

While the plaintiff calls his pleading a motion, the pleading does not ask the court for any relief. Id. It is possible that he meant the motion to be a motion for leave to file an amended complaint; the court received an amended complaint from the plaintiff on October 25, 2017 (two days after the court issued its order granting summary judgment and dismissing the case). Dkt. No. 45. If the plaintiff did mean to ask leave to file an amended complaint, the court will not grant that motion. The time to file an amended complaint is while the case remains open. Once the court has dismissed the case, the appropriate way for the plaintiff to proceed would have been to do what the court suggested—file a new case.

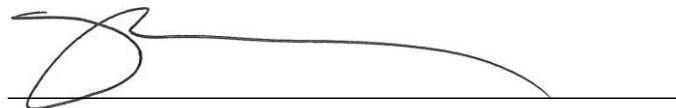
In fact, the plaintiff appears to have done just that. On October 30, 2017, the plaintiff filed a new complaint, McDaniel v. Steele, Case No. 17-cv-1495, Dkt. No. 1. That complaint names only defendant Steele, but it makes the same allegations that the plaintiff made in this case. The new case is pending before Judge Jones, who has not yet had the opportunity to screen that complaint. If the plaintiff wants to bring additional claims or name additional defendants relating to his allegations about his prescription medication, he should file an amended complaint in that open case—McDaniel v. Steele, Case No. 17-cv-

1495—not in this closed one.

The court **ORDERS** that the plaintiff's October 30, 2017 motion is **DENIED**. Dkt. No. 46.

Dated in Milwaukee, Wisconsin this 20th day of November, 2017.

BY THE COURT



HON. PAMELA PEPPER
United States District Judge