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Appeal No. 22-2475

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

ROBERT K. DECKER,)
Plaintiff,)
v.)
FEDERAL BUREAU OF PRISONS,)
Defendant.)
No. 2:21-cv-00253-JPH-MJD

ORDER DENYING MOTION FOR COURT ORDER AND DISMISSING ACTION

Robert K. Decker sued the Federal Bureau of Prisons (BOP) for injunctive relief for failing to provide him periodic reviews of his placement in the Communications Management Unit (CMU) in violation of his due process rights and for establishing the CMU in violation of the Administrative Procedures Act (APA). The Court initially dismissed an access to courts claim alleged in his original complaint. That claim was raised against the CMU's Legal Department Head Katherine Siereveld for refusing to allow certain court documents to be notarized and/or mailed to a court. Dkt. 1 at 9.

Mr. Decker later sought leave to amend his complaint to add a damages claim against the United States for failing to provide federal inmates adequate access to state law resources. Dkt. 21. The Court denied the motion because the new claim was unrelated to the claims in Mr. Decker's original complaint and would therefore be misjoined. Dkt. 30.

Mr. Decker moved the Court to reconsider its Order. He asked the Court to dismiss his APA claim as moot—because he was being transferred out of the CMU—and allow his access to court claim to proceed instead. Dkt. 32. The Court dismissed the moot APA claim, reaffirmed the denial of Mr. Decker's motion to amend his complaint, and ordered him to show cause by July 6,

2022, why this action should not be dismissed as moot since his move from the CMU would also moot his injunctive relief due process claim. Dkt. 36.

Mr. Decker responded with a motion for court order which again asks the Court to allow him to amend his complaint to state a damages claim against the United States for failing to provide inmates adequate access to state law resources. Dkt. 37. He argues that because he alleged an access to courts claim against Katherine Siereveld in his original complaint, he should be allowed to substitute his new claim regarding access to state law resources.

Mr. Decker's motion, dkt. [37], is denied because the access to courts claim he attempted to raise against Ms. Siereveld is distinct from the claim he seeks to raise against the United States. His claim against Ms. Siereveld involved her alleged refusal to have certain documents notarized and/or mailed to a court. His claim against the United States is that it fails to provide adequate state law resources to federal inmates. As the Court previously held, Mr. Decker cannot repurpose this case number for a completely different lawsuit a year after filing it to avoid paying a separate filing fee. *See George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (inmates cannot pursue unrelated claims in one lawsuit to avoid paying filing fees or receiving strikes under 28 U.S.C. § 1915(g)); *Andrews v. Slawinski*, 2012 WL 12878653, at *2 (C.D. Cal. May 17, 2012) ("Rule 15 allows a plaintiff to amend his complaint only to add matters that would otherwise have been properly included in the original complaint."). If Mr. Decker wishes to pursue an access to courts claim, he may initiate a new civil rights action by filing a separate complaint.

Mr. Decker did not address whether his remaining due process injunctive relief claim is moot. His deadline to do so has passed. His move out of the CMU would also moot that claim. *See Calhoun v. DeTella*, 319 F.3d 936, 939 (7th Cir. 2003) (acknowledging that transfer from prison where inmate sought injunctive relief concerning strip search practice mooted claim).

For these reasons, Mr. Decker's complaint is **dismissed as moot**. Final judgment shall now enter.

SO ORDERED.

Date: 8/2/2022

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

ROBERT K. DECKER,)
Plaintiff,)
v.) No. 2:21-cv-00253-JPH-MJD
FEDERAL BUREAU OF PRISONS,)
Defendant.)

FINAL JUDGMENT

The Court now enters FINAL JUDGMENT in favor of defendant and against plaintiff. The action is dismissed as moot.

Date: 8/2/2022

Roger A. G. Sharpe, Clerk of Court
By: Pam Pope
Deputy Clerk

James Patrick Hanlon
James Patrick Hanlon
United States District Judge
Southern District of Indiana

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NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 13, 2023*
Decided April 14, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2475

ROBERT K. DECKER,
Plaintiff-Appellant,

v.

FEDERAL BUREAU OF PRISONS,
Defendant-Appellee.

Appeal from the United States District
Court for the Southern District of
Indiana, Terre Haute Division.

No. 2:21-cv-00253-JPH-MJD

James Patrick Hanlon,
Judge.

ORDER

Robert Decker, a federal prisoner, challenges the denials of his motions to amend his complaint seeking monetary and injunctive relief related to his placement in the Communications Management Unit at his prison. The district court denied the motions,

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

concluding that Decker improperly sought to join an unrelated claim against the United States in the suit. We affirm.

In his original complaint, Decker sued various prison officials regarding the Communications Management Unit at Federal Correctional Institution, Terre Haute. The Communications Management Unit is a self-contained housing area where inmates are socially isolated and denied access to some prison programming. Inmates' visits, mail, and phone calls are also subjected to more scrutiny. *See* 28 C.F.R. § 540.200. Decker alleged that the lack of a periodic review of his placement in the unit violated his due process rights; that the creation of the Communications Management Unit—without comment or notice—violated the Administrative Procedures Act; and that a Federal Bureau of Prisons employee denied him access to the courts by refusing to allow the notarization of documents he needed for his state-court proceedings.

The district court screened Decker's complaint, *see* 28 U.S.C. § 1915A(a), dismissed most claims, but allowed him to proceed on his due process and APA claims. The court also allowed him to join the Federal Bureau of Prisons as a defendant.

Decker sought leave to amend his complaint to add a claim against the United States for failing to provide access to state-law resources. The court denied Decker's motion to amend. The court acknowledged that Federal Rule of Civil Procedure 18(a) allows a plaintiff to combine unrelated claims against a single party, but Decker's proposed damages claim against the United States did not relate to his injunctive relief claims in his original complaint against the Bureau of Prisons. Such unrelated claims, the court explained, belonged in a separate lawsuit, for which a separate filing fee would have to be paid.

Decker moved to reconsider the denial of his motion to amend. He asked the court to dismiss his APA claim as moot (because he was awaiting transfer out of the Communications Management Unit) and allow him to proceed instead on his access-to-courts claim against the United States. The court dismissed the APA claim, reaffirmed its denial of Decker's motion to amend his complaint, and ordered him to show cause why the suit should not be dismissed as moot in light of his pending transfer from the unit.

Decker did not respond to the show-cause order and instead filed another motion for leave to amend to add an access-to-courts claim against the United States. The court denied that motion and dismissed Decker's remaining claim as moot.

Three months later, after his transfer to another prison's Communications Management Unit, Decker moved to reinstate his APA claim. Because Decker's appeal by this time was pending, the court denied the motion for lack of jurisdiction.

On appeal, Decker challenges the denial of his motions to amend and have the United States joined as a party. He argues that his proposed access-to-courts damages claim against the United States involved the same allegations he had made in his original complaint.

The court correctly denied Decker leave to amend his complaint. Even if Decker had made allegations in his original complaint regarding an access-to-courts damages claim against the United States, Federal Rule of Civil Procedure 20 would preclude adding such a claim to a suit seeking injunctive relief against the Bureau of Prisons under the APA and the due process clause. A plaintiff may join multiple defendants only when the claims arise from the same set of events and share a common question of law or fact. *Mitchell v. Kallas*, 895 F.3d 492, 502–03 (7th Cir. 2018) (citing FED. R. CIV. P. 20(a)(2)(A)). Multiple claims against a single defendant are allowable, but "Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2." *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). The United States is a separate party from the Bureau of Prisons. The court here acted well within its discretion by refusing to let Decker join unrelated claims against different defendants.

Finally, with regard to the denial of his motion to reinstate his APA claim for injunctive relief, Decker says that his case now presents a live controversy because he has since been transferred to a Communications Management Unit at another prison. But we cannot review this argument on appeal. Because he filed the motion more than 28 days after judgment, the court properly considered it under Rule 60(b) of the Federal Rules of Civil Procedure, *Word Seed Church v. Village of Homewood*, 43 F.4th 688, 690 (7th Cir. 2022), and he did not file—as he must—a separate notice of appeal from the denial of that motion. *United States v. Bonk*, 967 F.3d 643, 649–50 (7th Cir. 2020); *Smith v. Barry*, 502 U.S. 244, 248 (1992).

AFFIRMED

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

May 19, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2475

ROBERT K. DECKER,
Plaintiff-Appellant,
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FEDERAL BUREAU OF PRISONS,
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James Patrick Hanlon,
Judge.

O R D E R

Plaintiff-Appellant filed a petition for rehearing and rehearing en banc on May 3, 2023. No judge in regular active service has requested a vote on the petition for rehearing en banc, and all the judges on the panel have voted to deny rehearing. The petition for rehearing is therefore DENIED.

**Additional material
from this filing is
available in the
Clerk's Office.**