



## Broadnax et al v. The United States of America et al

2023 | Cited 0 times | S.D. West Virginia | September 7, 2023

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA

AT BLUEFIELD RODNEY BROADNAX, et al, Plaintiffs, v. CIVIL ACTION NO. 1:22-cv-00437  
FEDERAL CORRECTIONAL INSTITUTION MCDOWELL, et al, Defendants.

MEMORANDUM OPINION AND ORDER Pending before the court is plaintiffs' motion for leave to file a second amended complaint. ECF No. 33. For the reasons that follow, that motion is GRANTED. I. Background This case arises from a carbon monoxide leak that occurred at Federal Correctional Institution McDowell ("FCI McDowell"), a federal prison located in McDowell County, West Virginia. See ECF No. 4 at ¶¶ 1, 14. In an amended complaint 1

filed after this incident, several inmates of the prison brought various common law tort claims against FCI McDowell, the Federal Bureau of Prisons, and the director of the Federal Bureau of Prisons. See id. at ¶¶ 2-4, Counts I-III. Plaintiffs also sued fifty "John Doe" prison guards in their individual capacities for allegedly

1 Plaintiffs amended their initial complaint once as matter of course. See ECF No. 4.

2 depriving plaintiffs of their constitutional rights. See id. at ¶ 5, Count IV. Defendants moved to dismiss the amended complaint for, among other things, lack of subject matter jurisdiction, claiming that they are entitled to sovereign immunity from the claims. See ECF No. 25. Following the filing of defendants' motion to dismiss, plaintiffs filed a motion to amend their complaint for a second time. See ECF No. 33. Plaintiffs submitted a proposed amended complaint with the motion to amend. See id. at Ex. 1. The proposed amended complaint (1) adds additional plaintiffs, (2) adds additional jurisdictional allegations, and (3) substitutes the United States of America as the defendant for FCI McDowell, the Bureau of Prisons, and the Bureau of Prison's director. See id. Defendants do not oppose this motion to amend. See ECF No. 35 at 2. II. Analysis Rule 15(a) of the Federal Rules of Civil Procedure permits a party to amend its pleading "once as a matter of course at any time before a responsive pleading is served . . . [o]therwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." In *Foman v. Davis*, 371 U.S. 178, 182 (1962), the United States Supreme Court noted that amendment under Rule 15(a) should be freely given absent "undue



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3 delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.” However, “[o]nce the scheduling order's deadline for amendment of the pleadings has passed, a moving party first must satisfy the good cause standard of Rule 16(b) [of the Federal Rules of Civil Procedure]. If the moving party satisfies Rule 16(b), the movant then must pass the tests for amendment under Rule 15(a).” *Marcum v. Zimmer*, 163 F.R.D. 250, 254 (S.D.W. Va. 1995) (citing *Lone Star Transp. Corp. v. Lafarge Corp.*, Nos. 93- 1505, 93-1506, 1994 WL 118475 (4th Cir. April 7, 1994)). In this case, the scheduling order required the parties to amend their pleadings no later than April 14, 2023. See ECF No. 24. Plaintiffs filed this motion to amend the complaint on March 23, 2023, which is within the scheduling order’s deadline. See ECF No. 33. So, plaintiffs need not satisfy Rule 16(b)’s good cause standard, and the court must only consider Rule 15(a) when deciding this motion. Under Rule 15(a), the court shall grant leave to file an amended complaint whenever justice so requires. In this case, plaintiffs seek to amend their complaint, in part, to add additional jurisdictional allegations. Plaintiffs bear the burden of establishing this court’s subject matter jurisdiction,

4 which defendants have contested. See *Richmond, Fredricksburg & Potomic R. Co. v. United States*, 945 F.2d 765, 768 (4th Cir. 1991) (citing *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir.1982)). The court, therefore, finds it in the interest of justice to permit plaintiffs to pursue their burden of proof through the proposed amended complaint’s additional jurisdictional allegations. The proposed amended complaint also names additional plaintiffs. Those plaintiffs currently have claims related to the same incident pending before the United States District Court for the District of Maryland. See ECF No. 33. Defendants moved that court to transfer those cases here for consolidation, and plaintiffs have not opposed that motion. See *id.* So, this court finds it in the interest of justice to grant plaintiffs’ motion to amend their complaint to name the additional plaintiffs in this suit: adding the additional plaintiffs is consistent with defendants’ motion to transfer the Maryland action here and defendants do not oppose plaintiffs’ motion to amend. Finally, the proposed amended complaint substitutes all defendants, except the individually named John Doe defendants, with the United States as the proper defendant. This is consistent with a motion made by the United States to substitute itself for those defendants. See ECF No. 28. The court,

5 therefore, finds it in the interest of justice to grant plaintiffs’ motion to amend its complaint to substitute those defendants. The court also finds that plaintiffs’ motion to amend presents no undue delay, bad faith, or dilatory motive and that the amended complaint will not unduly prejudice the defendants or be futile. III. Conclusion For these reasons, plaintiffs’ motion for leave to file a second amended complaint is GRANTED and the Clerk is directed to file the Second Amended Complaint attached as Exhibit 1 to ECF No. 33. Furthermore, because of the court’s ruling on the motion to amend, defendants’ motion to dismiss plaintiffs’ first amended complaint (ECF No. 25) is DENIED without prejudice as moot. 2

Defendants may renew their motion to dismiss by refileing the same motion or file a new motion



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consistent with the second amended complaint, if appropriate. Defendants' motion to

2 “As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect.” *Young v. City of Mt. Ranier*, 238 F.3d 567, 572 (4th Cir. 2001). “It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot.” *Catlin Specialty Ins. Co. v. Jafrum International, Inc.*, Civil Action No. 3:14-CV-607-RJC- DCK, 2015 WL 10434683, at \*3 (W.D.N.C. Sept. 14, 2015); see, e.g., *Penkoski v. Justice*, No. 1:18CV10, 2018 WL 4088069, at \*1 (N.D.W. Va. August 27, 2018) (“[I]n light of the plaintiffs' timely amendment, the defendants' previously filed motion to dismiss has been rendered moot.”).

David A. Faber Senior United States District Judge

6 substitute the United States as the proper party (ECF No. 28) is DENIED as moot. The motion to exceed page limit (ECF No. 27) is GRANTED. IT IS SO ORDERED this 7th day of September, 2023. ENTER:

