

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DALE E. McCORMICK,

Plaintiff,

v.

CASE NO. 07-2605-SAC

ROGER WERHOLTZ,
et al.,

Defendants.

O R D E R

This matter is before the court upon plaintiff's Motion to Stay Proceedings (Doc. 29). Having considered the motion, the court finds it should be denied.

Plaintiff seeks a stay in order to amend his Complaint "to add additional claims" some of which "(he) is presently exhausting (his) 'administrative remedies' in regards to." He also alleges in support of his motion that four other inmates at Lansing prison intend to file motions to intervene in this case on the basis of First Amendment claims similar to plaintiff's.

Plaintiff alleges no facts whatsoever regarding his possible, additional claims. Thus, the court cannot even weigh if they are proper amendments to the complaint filed in this case. It follows that the court cannot find that a stay is warranted after summons has already issued in this matter and a responsive pleading is due. Plaintiff has not attached his proposed amendments or provided any of the facts he would allege in support of additional claims. The denial of plaintiff's motion to stay does not preclude him from properly amending his complaint. He may still amend his pleading once as a matter of course before being served with a responsive

pleading, or thereafter with leave of court. Federal Rules of Civil Procedure, Rule 15(a)(1)(A) and (2).

A stay is not clearly warranted for the purpose of permitting other inmates at Lansing time to file motions to intervene in this action. Motions to intervene by other inmates will generally be denied, mainly for the reason that this district has recently ruled that each inmate must proceed upon his or her own civil rights complaint based upon that inmate's personal factual account, and each plaintiff is responsible for the entire district court filing fee pursuant to 28 U.S.C. § 1915.

IT IS THEREFORE ORDERED that plaintiff's Motion to Stay (Doc. 29) is denied.

IT IS SO ORDERED.

Dated this 22nd day of July, 2008, at Topeka, Kansas.

s/Sam A. Crow
U. S. Senior District Judge