

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RONALD MURRAY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 07-3276-KHV
)	
KANSAS DEPARTMENT OF)	
CORRECTIONS, et al.,)	
)	
Defendants.)	

ORDER

This prisoner civil rights case comes before the court on the motion (**doc. 16**) of the pro se plaintiff, Ronald Murray, for leave to file a supplemental complaint.

Plaintiff and two other inmates, Jeff Hunt and Emmett Kirkham, all proceeding pro se, filed this case on October 31, 2007, against the Kansas Department of Corrections (“KDOC”), Gloria Geither, the religious coordinator at the Larned Correctional Mental Health Facility, Larned, Kansas (“LCMHF”), and Karen Rohling, Warden at LCMHF, claiming violation of their First Amendment right to free exercise of religion and denial under the Fourteenth Amendment of equal protection of their religious rights while they were confined at LCMHF. In early March 2008, plaintiffs Murray and Hunt were transferred to the Hutchinson Correctional Facility, Hutchinson, Kansas (“HCF”).¹

¹Docs. 10 & 11.
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On March 25, 2008, the Hon. Sam A. Crow, the presiding district judge at that time,² entered an order (doc. 12) dismissing plaintiff Kirkham, without prejudice, pursuant to his Notice of Voluntarily Dismissal (doc. 5), and severed this action into two separate cases as to the remaining two plaintiffs, Murray and Hunt. On March 26, 2008, Judge Crow entered an order (doc. 13) granting plaintiff Murray leave to proceed in forma pauperis, directing the clerk of the court to proceed with service of process upon defendants, and directing the officials for the operation of the LCMHF and HCF to prepare a *Martinez* report. Judge Crow also ordered that no answer or motion addressing the complaint were to be filed until after the Martinez report had been prepared and discovery by plaintiff would not commence until plaintiff had received and reviewed defendants' answers or response to the complaint and the Martinez report. The clerk of the court issued waivers and summons as to defendants for service by the U.S. Marshal's office.³

Plaintiff has filed the instant motion seeking leave to supplement his complaint to add three new defendants, Chaplain McKiernan, the chaplain at LCMHF, and SORT Officers J. Davidson and T. Collis, both employed at HCF, and to include events that occurred after the filing of his complaint at LCMHF and HCF similar to those raised in his initial complaint. The court construes this motion as a motion to amend rather than a motion to supplement.

²This case was reassigned to the Hon. Kathryn H. Vratil, Chief Judge, on April 21, 2008 (doc. 14).

³The court has been advised by the clerk of the court that the waivers and summons were sent to defendants on April 30, 2008.

Under Rule 15(a), a party may amend its pleading once as a matter of course at any time before a responsive pleading is served. No answer or other responsive pleading has been filed, therefore, plaintiff is permitted to amend his complaint as a matter of course, without seeking leave of court. However, since plaintiff is a prisoner, the court has also screened the proposed amendments as required 28 U.S.C. § 1915A(a) and (b). This provision requires district courts to review, as soon as practicable, prisoner complaints seeking relief from governmental entities, officers, or employees and to dismiss claims that are frivolous, malicious, or fail to state a claim. The court finds the proposed amendments are not frivolous or malicious. The court also finds, in the context of allowing plaintiff to amend his complaint, that the proposed amendments are not futile.

In consideration of the foregoing,

IT IS HEREBY ORDERED:

1. Plaintiff's motion (**doc. 16**) is granted. Plaintiff shall combine his original complaint (doc. 1) and his supplement to his complaint (doc. 16) into one pleading, i.e., the amended complaint. Plaintiff should use the "Civil Rights Complaint Pursuant to 42 U.S.C. § 1983" form which the court is enclosing with this order. For plaintiff's convenience, the court is also enclosing a copy of his complaint and supplement to his complaint. The amended complaint shall be limited to the exact allegations and claims set forth in the complaint and supplement. Plaintiff shall submit his amended complaint to the clerk of the court for filing no later than **May 30, 2008**.

2. Upon the filing of plaintiff's amended complaint, the clerk of the court shall

prepare waiver of service forms pursuant to Fed. R. Civ. P. 4(d) as to the three new defendants McKiernan, Davidson, and Collis, to be served by the U.S. Marshal or a Deputy Marshal, within **10 days** thereafter. As to the original defendants, KDOC, Geither, and Rohling, the clerk of the court shall send a copy of the amended complaint to each defendant by certified mail, return receipt requested.

3. The officials responsible for preparing the *Martinez* report shall include the additional claims in the final report.

4. Copies of this order shall be transmitted to plaintiff, to the Secretary of Corrections, and to the Attorney General of the State of Kansas.

Dated this 14th day of May, 2008 at Kansas City, Kansas.

s/ James P. O'Hara

James P. O'Hara
U.S. Magistrate Judge