

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MONTEE RAY IVERSON,

Plaintiff,

v.

CASE NO. 16-3102-SAC-DJW

SAM CLINE, et al.,

Defendants.

ORDER

Plaintiff brings this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is currently incarcerated at the El Dorado Correctional Facility in El Dorado, Kansas (“EDCF”). The Court screened Plaintiff’s Second Amended Complaint (Doc. 33) (“SAC”) pursuant to 28 U.S.C. § 1915A. (Doc. 32.) The Court dismissed Plaintiff’s retaliation claim in Count I, and ordered a *Martinez* Report for Counts II and III. *Id.* Plaintiff filed a Motion to Alter or Amend Judgment (Doc. 34), arguing that he erroneously titled Doc. 33 as his “Second Amended Complaint,” when in actuality it was only his First Amended Complaint. Plaintiff also disagreed with the Court’s findings and rulings regarding his retaliation claim and reargued some of his allegations of retaliation. The Court denied the Motion to Alter or Amend, and found that Plaintiff’s Second Amended Complaint at Doc. 33 was properly designated as his Second Amended Complaint. (Doc. 43.) This matter is now before the Court on Plaintiff’s Motion for Leave to File Correctly Designated Second Amended Complaint (Doc. 35). Attached to the motion is a proposed amended complaint that Plaintiff again improperly designates as his “Second Amended Complaint.” The Court denies the motion for leave to amend.

Plaintiff moves for leave to amend, again incorrectly designating this as his “Second Amended Complaint,” and without submitting it on the Court-approved form. *See* D. Kan. Rule 9.1(a) (“[C]ivil rights complaints by prisoners under 42 U.S.C. § 1983 . . . must be on forms approved by the court. Upon request, the clerk of court will supply forms without charge.”). His proposed amended complaint reargues his retaliation claim that the Court previously dismissed, makes conclusory allegations of a conspiracy, adds multiple defendants without allegations of personal involvement, and reasserts the claims the Court has already found in need of a *Martinez* Report. For these reasons, the Court denies Plaintiff’s request for leave to amend. This denial is without prejudice to Plaintiff refiling a motion for leave to amend after he has received the *Martinez* Report.

IT IS THEREFORE ORDERED BY THE COURT that Plaintiff’s Motion for Leave to File Correctly Designated Second Amended Complaint (Doc. 35) is **denied without prejudice**.

IT IS SO ORDERED.

Dated in Topeka, Kansas, on this 19th day of May, 2017.

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