

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ZABRIEL L. EVANS,

Plaintiff,

v.

Case No. 18-3193-JWB

DAN SCHNURR, et al.,

Defendants.

MEMORANDUM AND ORDER

This case comes before the court on Plaintiff's motion to stay (Doc. 59) and motion for summary judgment (Doc. 61). For the reasons stated herein, Plaintiff's motions are denied.

Plaintiff, a prisoner currently in the custody of the Kansas Department of Corrections, brought suit against Defendants, the warden and correctional officers at the Hutchinson Correctional Facility, alleging violations of his constitutional rights. (Doc. 30.) On April 1, 2020, this court granted summary judgment in favor of Defendants on all claims presented in Plaintiff's amended complaint. (Doc. 57.) In accordance with that order, the clerk's office entered judgment in favor of Defendants. (Doc. 58.)

Plaintiff now moves to stay the proceedings and asserts that this court did not resolve his claim "pursuant to Fed. R. Civ. P. Rule 9(h) in admiralty asserting that Zabriel L. Evans is a secured party registered in the state of Kansas and has a security interest in this case." (Doc. 59 at 2.) Plaintiff seeks a ruling on his claim of being a secured party "so that he can proceed with evidence to the" Tenth Circuit. (Doc. 60.) Plaintiff also moves for summary judgment as to this "claim." (Doc. 61.)

A review of the amended complaint shows that Plaintiff did not assert any claims that have not been addressed by the court in its previous order. Although Plaintiff signed the amended complaint as a “secured party,” Plaintiff did not assert any additional claims regarding a security interest. Plaintiff’s response to Defendant’s motion for summary judgment asserted that he had a security interest in this action. (Doc. 47 at 37.) Plaintiff, however, does not have a separate claim against Defendants and, to the extent his security interest is in this lawsuit, Plaintiff did not prevail on the merits. *See Evans v. Cawthorn*, No. 16-3095-DDC-ADM, 2019 WL 5787952, at *10 (D. Kan. Nov. 6, 2019) (denying claim for damages based on Plaintiff’s “security interest” after denying Plaintiff’s motion for summary judgment). Moreover, to the extent Plaintiff is asserting that this claim arises under Rule 9(h), that rule addresses claims that are within the admiralty or maritime jurisdiction but does not provide a separate claim of relief.

Plaintiff’s motion to stay proceedings (Doc. 59) is DENIED. As this court has already entered judgment, Plaintiff’s motion for summary judgment is DENIED AS MOOT (Doc. 61.)
IT IS SO ORDERED this 23rd day of April, 2020.

s/ John W. Broomes
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE