

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

ARTHUR NELSON	:	
	:	PRISONER
v.	:	Case No. 3:05cv273 (SRU)(WIG)
	:	
THERESA LANTZ, et al.	:	

RULING ON PLAINTIFF'S MOTION FOR LEAVE TO AMEND

Arthur Nelson filed this civil rights action pro se pursuant to 28 U.S.C. § 1915. He alleged that defendants were deliberately indifferent to his need for medical treatment. On April 7, 2006, the court granted defendants' motion to dismiss the amended complaint. Nelson now seeks leave to file a second amended complaint to add a claim of slander against a new defendant. Although Nelson filed his motion before the court dismissed this case, the motion was not docketed, and therefore, not brought to the court's attention, until after the case was dismissed. For the reasons that follow, Nelson's motion is denied.

Rule 15(a), Fed. R. Civ. P., provides that permission to amend a complaint "shall be freely given when justice so requires." Underlying this rule is an assumption that the amended complaint will clarify or amplify the original cause of action. See Klos v. Haskell, 835 F. Supp. 710, 715 n.3 (W.D.N.Y. 1993), aff'd, 48 F.3d 81 (2d Cir. 1995). In determining whether to grant leave to amend, the court considers such factors as undue delay, bad faith, dilatory motive, undue prejudice and futility of the amendment. See Foman v. Davis, 371 U.S. 178, 182 (1962); see also

Platsky v. CIA, 953 F.2d 26, 29 (2d Cir. 1991) (per curiam) (holding that pro se litigant need not be given leave to amend where amendment would not state valid claim).

Nelson seeks to add a new defendant and an unrelated claim in his proposed second amended complaint. Because the new claim does not clarify or amplify the claims in the operative complaint, leave to amend is denied. Nelson may bring his proposed state law claim in state court or may commence another action in federal court if he can state a claim for denial of a federal or constitutionally protected right.

Nelson's motion for leave to file a second amended complaint [[doc. #30](#)] is **DENIED** without prejudice.

SO ORDERED this 19th day of April 2006, at Bridgeport, Connecticut.

/s/ Stefan R. Underhill

Stefan R. Underhill

United States District Judge