

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RANDALL GREENLEAF,)
)
 Plaintiff)
)
v.) Civil No. 98-0250-B
)
RONALD COTE,)
)
 Defendant)

ORDER

Plaintiff filed a Motion to Amend Complaint on February 8, 1999, in which he sought to amend the Complaint in four ways. First, he sought leave to add the Carrie Ricker Middle School and School Union 44 as Defendants in the action. Second, he sought to add his two minor daughters as named Plaintiffs. Third, he sought leave to clarify that his claim against Defendant Cote arises under 42 U.S.C. section 1983.¹ Fourth, he sought to add a prayer for compensatory and additional declaratory and injunctive relief. Defendant's response to the Motion to Amend indicated that he had no objection to requests number two and three. Defendant made no reference to request number four, which is construed in this District as a waiver of objection. D. Me. R. 7(b).

¹ Plaintiff's original pro se Complaint did raise a constitutional claim, it just did not specifically reference section 1983 as the vehicle by which Plaintiff sought to have it heard.

Defendant did object to the addition of the Middle School and School Union as Defendants on the grounds that the amendment would be futile as these institutions are not proper parties. Perhaps due to the statement in Defendant's objection that "the claims in this case are claims concerning the operation of one school in the Litchfield School Department," Plaintiff has now filed a second Motion to Amend the Complaint. In this second Motion, Plaintiff seeks the same amendments to which there was no objection following his first motion. This time, however, he does not appear to be seeking the addition of the Middle School or the School Union as Defendants, but has instead added a request to add the Litchfield School Department. Defendant Cote objects to the Motion to Amend to this extent.

There is no need to resolve the question whether Plaintiff intends to seek leave to add all three institutional Defendants, because Plaintiff has added no factual allegations in his proposed amendments that would support claims against any of them. Simply adding Defendants to the caption does nothing to state a claim against them upon which relief can be granted.

Further, institutional defendants are not persons within the meaning of 42 U.S.C. section 1983. *See Will v. Michigan Dept. of State Police*, 491 U.S. 58 (1989) (ruling so for the State Police). In order to state a valid claim under section 1983, a plaintiff must allege that individual defendants engaged in acts or omissions which

were deliberately indifferent to Plaintiff's constitutional rights. *City of Canton v. Harris*, 489 U.S. 378, 389-90 (1989).

Conclusion

For the foregoing reasons, Plaintiff's Motions to Amend Complaint are hereby DENIED to the extent he seeks leave to add additional Defendants, and GRANTED in all other respects.

SO ORDERED.

Eugene W. Beaulieu
U.S. Magistrate Judge

Dated on March 3, 2000.