

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

RANDALL PEACOCK,

Plaintiff,

v.

DANNEL MALLOY, ET AL.,

Defendants.

:
:
:
:
:
:
:
:
:
:

Case No. 3:18cv406(VLB)

RULING AND ORDER

The plaintiff, Randall Peacock (“Peacock”), is confined at the Brooklyn Correctional Institution in Brooklyn, Connecticut. He initiated this action by filing a complaint under 42 U.S.C. § 1983 against Governor Dannel Malloy, Lieutenant Governor Nancy Wyman, Connecticut Attorney General George Jepsen, Chief State’s Attorney Kevin T. Kane, Commissioner Scott Semple, Director of Parole – Community Services Joseph Haggan, Chairman Board of Pardons and Paroles Carlton J. Giles and Special Management Unit Parole Officer Frank Mirto. He challenges the sentence of imprisonment and term of special parole imposed pursuant to his pleas of guilty to two counts of illegal sexual contact with a victim in violation of Connecticut General Statutes § 53-21(a)(2) on the ground that the term of special parole violates the Fifth Amendment’s double jeopardy clause. For relief, Peacock requests that the court vacate his term of special parole and award him monetary damages.

Pending before the court are two motions to amend the complaint. For the reasons set forth below, the first motion to amend will be granted and the second motion to amend will be denied.

I. First Motion to Amend [ECF No. 9]

Peacock seeks leave to amend to add four new defendants, to add new facts in support of the claims asserted in the complaint and to add a new request for relief. Rule 15(a)(1)(B), Fed. R. Civ. P. provides that a party may amend its complaint only once as a matter of course within 21 days after service of a pleading that is responsive to the complaint or the service of a motion to dismiss, for more definite statement or to strike under Federal Rules of Civil Procedure 12(b), (e), (f). In all other circumstances, a motion to amend shall be granted “when justice so requires.” Fed. R. Civ. P. 15(a)(2).

Because no defendant has yet been served with the complaint or has filed an answer or motion addressed to the complaint, Peacock may file an amended complaint as a matter of course. The motion to amend to add four new defendants, new facts in support of Peacock’s claims and a new request for relief is granted. Because Peacock has not submitted a proposed amended complaint with the motion to amend, the court directs Peacock to file an amended complaint within twenty days of the date of this order.

II. Second Motion to Amend [ECF No. 10]

Peacock seeks leave to file a document titled “OLR Backgrounder: Sex Offenders on Probation and Parole – Treatment and Housing Restrictions” dated January 23, 2017 as evidence of “how they treat sex-offenders and how they violate the ‘equal protection act’ when it comes to the treatment and abuse of the law concerning sex offenders.” Mot. Amend at 1 ¶ 1 & Ex., ECF No. 10-1.

Peacock is not required to submit evidence in support of the allegations in a complaint or amended complaint. Furthermore, the subject matter of the document that Peacock intends to file does not appear to be related to the allegations in the complaint which pertain to the legality of the state court's imposition of a term of special parole in addition to a sentence of imprisonment in connection with Peacock's criminal convictions. Accordingly, the second motion seeking to amend the complaint to add evidence is denied.

Conclusion

The First Motion to Amend the Complaint, ECF No. 9, is GRANTED pursuant to Rule 15(a)(1)(B). The Second Motion to Amend, ECF No. 10, is DENIED. The court directs Peacock to file an amended complaint to include the new allegations, request for relief and defendants that he described in the first motion to amend. The amended complaint shall be filed within twenty (20) days of the date of this order. If Peacock chooses not to file an amended complaint within the time specified, the court will confine its review only to the defendants named in the complaint and the allegations asserted against those defendants.

SO ORDERED at Harford, Connecticut this 14th day of June, 2019.

/s/
Hon. Vanessa L. Bryant
United States District Judge