

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

RAFIQ SABIR,
Plaintiff,

v.

D.K. WILLIAMS, WARDEN FCI
DANBURY, et al.,
Defendants.

NO. 3:17-cv-749 (VAB)

JUNE 21, 2019

**MOTION TO SUPPLEMENT MOTION TO DISMISS
TO ADD MOOTNESS AS A NEW GROUNDS FOR DISMISSING
PLAINTIFF CONYERS'S CLAIMS FOR EQUITABLE RELIEF**

Defendants D.K. Williams, former Warden, FCI Danbury, Herman Quay, former Warden, FCI Danbury,¹ and Hugh J. Hurwitz, acting director of the Bureau of Prisons, move pursuant to Fed. R. Civ. P. 15(d) to amend their pending motion to dismiss (doc. #54) to add a new grounds for the dismissal of moot claims by plaintiff James Conyers, Jr. (“Conyers”). The basis for this motion is new factual circumstances that bear directly on Conyers’s ability to bring claims for equitable relief against the named defendants for the conduct alleged in the Second Amended Complaint (doc. #41). Defendants have raised this motion at the first practicable opportunity.

Federal Rule of Civil Procedure 15(d) permits, “[o]n motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented.”

Defendants move to supplement their motion to dismiss because Conyers was transferred from FCI Danbury, where the conduct alleged in the Second Amended Complaint occurred, to another federal correctional facility, approximately two months ago. As described in the attached

¹ The current Warden of FCI Danbury is M. Licon-Vitale.

Declaration, Conyers is currently designated to FCI Petersburg-Low, a Federal Correctional Institution located in Petersburg, Virginia. Ex. 1, C. Magnusson Decl. ¶ 3 (June 21, 2019) (citing Exhibit A). Conyers “was transferred to FCI-Petersburg-Low to place him at a lower security institution closer to his release residence that would afford him greater opportunities to receive visits from his family.” *Id.* ¶ 4 (citing Exhibit B). Conyers’s transfer was ordered by the Warden of FCI Danbury on March 11, 2019. *Id.* ¶ 5 (citing Exhibit C).

“In this circuit, an inmate’s transfer from a prison facility generally moots claims for declaratory and injunctive relief against officials of that facility.” *Salahuddin v. Goord*, 467 F.3d 263, 272 (2d Cir. 2006); *Prins v. Coughlin*, 76 F.3d 504, 506 (2d Cir. 1996) (“It is settled in this Circuit that a transfer from a prison facility moots an action for injunctive relief against the transferring facility.”); *Young v. Coughlin*, 866 F.2d 567, 568 n.1 (2d Cir. 1989)); *see also McIntosh v. United States*, No. 15-cv-2442 (KMK), 2018 WL 1275119, at *8 (S.D.N.Y. Mar. 7, 2018) (dismissing claims for injunctive relief as moot due to plaintiff’s transfer and release from custody); *Johnson v. Killian*, No. 07 CIV 6641 NRB, 2013 WL 103166, at *3 (S.D.N.Y. Jan. 9, 2013) (dismissing claims for declaratory and injunctive relief as moot due to prisoner’s transfer).

Accordingly, defendants move to supplement their motion to dismiss to raise the new grounds that Conyers’s claims for declaratory and injunctive relief against defendants in their official capacities are moot.² To the extent Conyers is seeking equitable relief against any defendant in their individual capacity, which would be atypical, *see Tanvir v. Tanzin*, 894 F.3d 449, 464 n.9 (2019), those claims are likewise moot.

² Plaintiff Conyers’ ability to bring damages claim against the individual capacity defendants is not affected by his transfer; however, those claims are subject to other challenges previously briefed.

Respectfully submitted,

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