

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

**Kenneth V. Fisher v. A. Herrick, Corrections Staff, LT. Clarke,
Superintendent, Mrs. Geddes, Programs Manager, J. Cockram,
Discrimination Co., Mrs. Fuzi, Law Library Co.**

No. 2:25-cv-01737-AB, United States District Court for the District of Oregon (January 21, 2026)

SUMMARY

The United States District Court for the District of Oregon granted Kenneth V. Fisher's motion to supplement his § 1983 complaint with a retaliation claim arising after the litigation began. The court denied his motion for partial summary judgment as premature because defendants had not yet filed an answer or other responsive pleading, without prejudice to refiling later.

CASE DETAILS

COURT	United States District Court for the District of Oregon
WRITING FOR THE COURT	Amy M. Baggio
JURISDICTION	United States District Court for the District of Oregon
DECIDED	January 21, 2026
DOCKET	2:25-cv-01737-AB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a 42 U.S.C. § 1983 retaliation action and moved for leave to amend his complaint and for partial summary judgment.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Kenneth V. Fisher v. A. Herrick, Corrections Staff, LT. Clarke, Superintendent, Mrs. Geddes, Programs Manager, J. Cockram, Discrimination Co., Mrs. Fuzi, Law Library Co.

TOPICS

- motion to amend
- summary judgment
- section 1983
- prisoners rights
- civil rights

PRACTICE AREAS

- civil rights
- prisoner civil rights
- federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff's request to add a retaliation claim based on events occurring after the filing of the original complaint should be treated as a motion to supplement and granted.
2. Whether Plaintiff's motion for partial summary judgment was premature before Defendants filed an answer or other responsive pleading.

HOLDINGS

1. A request to add a cause of action that arose after the litigation began is properly construed as a motion to supplement under Federal Rule of Civil Procedure 15(d), and Plaintiff's motion to supplement was granted.
2. Plaintiff's motion for partial summary judgment was premature before Defendants filed an answer or other responsive pleading and was denied without prejudice to refiling at a later stage of the litigation.

KEY QUOTATIONS

“Rule 15(d) permits the filing of a supplemental pleading which introduces a cause of action not alleged in the original complaint and not in existence when the original complaint was filed.” (at 1)

FACTUAL BACKGROUND

Kenneth V. Fisher, an adult in custody at the Powder River Correctional Facility, alleged that the Defendants retaliated against him for filing a discrimination complaint and grievances. He sought to add a retaliation claim based on conduct alleged to have occurred after he initiated the litigation. He also moved for partial summary judgment before Defendants had filed an answer or other responsive pleading.

PROCEDURAL HISTORY

Plaintiff alleged that Defendants retaliated against him for filing a discrimination complaint and grievances. After initiating the action, he sought leave to add a later-arising retaliation claim. Because the proposed claim arose after the action commenced, the court construed the request as a motion to supplement and granted it. The court denied Plaintiff's motion for partial summary judgment as premature because Defendants had not yet filed an answer or other responsive pleading, without prejudice to refiling later.

DISPOSITION

other

CASES CITED

- Cabrera v. City of Huntington Park, 159 F.3d 374, 382 (9th Cir. 1998)

OPINION

Fisher

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

KENNETH V. FISHER,

Case No. 2:25-cv-01737-AB Plaintiff,

ORDER

v. A. HERRICK, Corrections Staff, LT. CLARKE, Superintendent, MRS. GEDDES, Programs Manager, J. COCKRAM, Discrimination Co., MRS. FUZI, Law Library Co., Defendants. Baggio, District Judge: Plaintiff, an adult in custody at the Powder River Correctional Facility, brings this civil rights action pursuant to 42 U.S.C. § 1983. He alleges Defendants have retaliated against him for filing a discrimination complaint and grievances. Plaintiff filed a Motion for Leave to File an Amended Complaint raising a new retaliation claim alleged to have occurred after Plaintiff initiated this litigation. See Mot. (ECF No. 5); Am. Compl. at 15-16 (ECF No. 5-1). His request to amend is therefore more appropriately considered a request to supplement. See *Cabrera v. City of Huntington Park*, 159 F.3d 374, 382 (9th Cir. 1998) (“Rule 15(d) permits the filing of a supplemental pleading which introduces a cause of action not alleged in the original complaint and not in existence when the original complaint was filed.”). Accordingly, Plaintiff’s Motion for Leave to File an Amended Complaint, construed as a motion to supplement, is GRANTED. Plaintiff also filed a Motion for Partial Summary Judgment. Mot. Summ. J. (ECF No. 7); Pl’s Aff. (ECF No. 8). Defendants have not yet filed an answer or other responsive pleading. Plaintiff’s Motion for Partial Summary Judgment is therefore DENIED as premature and without prejudice to his right to refile the Motion at a later stage of litigation.

CONCLUSION

For the reasons explained above, Plaintiff’s Motions for Leave to File an Amended Complaint, construed as a motion to supplement, (ECF No. 5) is GRANTED and Plaintiff’s Motion for Partial Summary Judgment (ECF No. 7) is DENIED as premature and without prejudice to his right to refile the Motion at a later stage of litigation. IT IS SO ORDERED. 01/21/2026 Amey Wt. Faggee
DATE Amy M. Baggio United States District Judge

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