

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

FREDERICK CARTER

§

VS.

§

CIVIL ACTION NO. 9:17-CV-40

BRAD LIVINGSTON, *et al.*,

§

**MEMORANDUM OPINION AND ORDER DENYING PLAINTIFF'S MOTION TO
APPEAL DECISION OF MAGISTRATE JUDGE DENYING MOTION TO
SUPPLEMENT**

Plaintiff, Frederick Carter, an inmate confined at the Polunsky Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se and in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against numerous defendants.

Plaintiff filed a Response and Objection to Order Denying Motion to Supplement (docket entry no. 151). The court liberally construes the motion as a Motion to Appeal Decision of Magistrate Judge. For the reasons outlined below, the motion is denied.

Discussion

This case has been pending since March 23, 2017. Plaintiff filed a Motion to Supplement on May 20, 2020 and an Inquiry to Court Concerning Leave to Add Defendants and Amended Complaint on September 10, 2020 (docket entry nos. 127 & 136). As outlined by the Magistrate Judge in the order denying the motions, plaintiff seeks leave to amend his petition relating to incidents that occurred in 2017. Plaintiff waited over three years to seek leave to amend to add specific defendants and after the other defendants were ordered to answer, filed answers or other responsive pleadings. The Magistrate Judge determined that plaintiff failed to show good cause to

grant the late amendment and failed to explain the delay. In addition, the Magistrate Judge determined that granting leave to amend at this late juncture would be unduly prejudicial to the defendants and denied the motion.

The court finds the order entered by the Magistrate Judge is neither clearly erroneous nor contrary to law.

ORDER

ORDERED that plaintiff's Motion to Appeal the Decision of Magistrate Judge (docket entry no. 151) is **DENIED**.

So ORDERED and SIGNED, Mar 01, 2021.



Ron Clark
Senior Judge