

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

PATRICK DONZELL LEE

PLAINTIFF

v.

Civil No. 4:15-cv-04102

OFFICER PATTERSON; and
SERGEANT MILLER

DEFENDANTS

ORDER

Plaintiff Patrick Lee filed this 28 U.S.C. § 1983 action *pro se* on October 7, 2015. ECF No. 1. Currently before the Court is Plaintiff's Motion to Supplement Complaint. ECF No. 22. Defendants have not responded. The Motion is ready for decision.

Rule 15 of the Federal Rules of Civil Procedure governs amended pleadings. Rule 15(a) provides in pertinent part:

- (1) ***Amending as a Matter of Course***. A party may amend its pleading once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.
- (2) ***Other Amendments***. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Fed. R. Civ. P. 15(a).

Although leave to amend is to be freely granted under Rule 15(a), the Court has discretion whether or not to grant leave to amend. *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 330–32 (1971). Factors to consider in determining whether leave to amend should be granted include but are not limited to (1) whether the motion was filed in bad faith or with dilatory motive; (2) whether the motion was filed with undue delay; (3) whether leave to amend would be unduly

prejudicial to the opposing parties; and (4) whether the proposed amendment would be futile. *See Bell v. Allstate Life Ins. Co.*, 160 F.3d 452, 454 (8th Cir. 1998) (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)); *Williams v. Little Rock Mun. Water Works*, 21 F.3d 218, 224 (8th Cir. 1994).

Plaintiff filed his original Complaint on October 7, 2015. ECF No. 1. Defendants were not served until April 1, 2016. ECF No. 18. An Answer was filed on April 22, 2016. Plaintiff filed his Motion to Supplement Complaint (ECF No. 22) on May 2, 2016. Plaintiff's motion was not filed with undue delay and allowing Plaintiff to supplement his Complaint at this early stage of the litigation will not unduly prejudice the defendants.

Accordingly, Plaintiff's Motion to Supplement Complaint (ECF No. 22) is **GRANTED**. The Clerk is **DIRECTED** to file Plaintiff's Motion to Supplement (ECF No. 22) as a supplement to Plaintiff's Complaint.

IT IS SO ORDERED this 25th day of May 2016.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE