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UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

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KODY GAMBREL,
Plaintiff,

v.

TWIN FALLS COUNTY; ANDREW
HEIKKILA, an individual;
BRADLEY TERRY, an individual;
STACEY THOMAS, an individual;
JIMMY ADAMS, an individual;
and JOHN DOES 1-10,
Defendants.

CIV. NO. 1:12-369 WBS

MEMORANDUM AND ORDER RE: MOTION
TO AMEND

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Plaintiff Kody Gambrel brought this civil rights action against defendant Twin Falls County and several defendants in their individual capacities arising out of injuries he suffered as an inmate at the Twin Falls County Jail. Plaintiff now moves for leave to file an amended Complaint.

Generally, a motion to amend is subject to Federal Rule of Civil Procedure 15(a), which provides that "[t]he court should

1 freely give leave [to amend] when justice so requires." Fed. R.
2 Civ. P. 15(a)(2). "However, once a scheduling order has been
3 entered pursuant to Rule 16(b), the more restrictive provisions
4 of that subsection requiring a showing of 'good cause' for
5 failing to amend prior to the deadline in that order apply."
6 Robinson v. Twin Falls Highway Dist., 233 F.R.D. 670, 672 (D.
7 Idaho 2006) (Winmill, J.); accord Johnson v. Mammoth Recreations,
8 Inc., 975 F.2d 604, 609 (9th Cir. 1992). "Unlike Rule 15(a)'s
9 liberal amendment policy, which focuses on the bad faith of the
10 party seeking an amendment and the prejudice to the opposing
11 party, the 'good cause' standard set forth in Rule 16 primarily
12 focuses on the diligence of the party requesting the amendment."
13 Sadid v. Vailas, 943 F. Supp. 2d 1125, 1138 (D. Idaho. 2013)
14 (Winmill, J.) (citing Johnson, 975 F.2d at 607).

15 Plaintiff's amended complaint differs from his initial
16 complaint in five basic respects: (1) it names Sherriff Tom
17 Carter in his official capacity; (2) it indicates whether the six
18 individual defendants are sued in their individual and/or
19 official capacities; (3) it omits the Doe defendants named in the
20 initial Complaint; (4) it no longer includes state-law negligence
21 or spoliation claims; and (5) it includes four separate claims
22 for relief under 42 U.S.C. § 1983. (Compare Compl. (Docket No.
23 1) with Proposed First Am. Compl. ("Proposed FAC") (Docket No.
24 21-4).) Defendants do not object to the first four amendments.
25 (See Defs.' Opp'n at 4 (Docket No. 22).)

26 Defendants oppose plaintiff's amended complaint insofar
27 as it separates the Section 1983 claim into four separate claims:
28 an excessive force claim; a deliberate indifference claim; a

1 failure-to-train claim; and a claim that Carter ratified the
2 unlawful acts of his subordinates in his capacity as a final
3 policymaker for Twin Falls County. (See Proposed FAC ¶¶ 178-
4 209.) In particular, defendants object that the failure-to-train
5 claim and ratification claim rely on "new theories which were not
6 fully explored during discovery." (Defs.' Opp'n at 4.)

7 Although defendants contend that the timing of the
8 amended complaint shows a lack of diligence, plaintiff indicates
9 that these amendments could not have been filed earlier because
10 they reflect information that plaintiff obtained from depositions
11 that it conducted "up until the discovery cutoff date." (Pl.'s
12 Mem. at 3 (Docket No. 21-2).) As Judge Lodge has noted, this is a
13 textbook example of "good cause." See, e.g., Mays v. Stoble,
14 Civ. No. 3:08-552 EJM CWD, 2010 WL 5110083, at *5 (D. Idaho Dec.
15 7, 2010) ("If a party does not learn of information necessary to
16 amend its complaint until after the scheduling order deadline, no
17 amount of diligence would allow the party to seek amendment
18 before the expiration of the deadline."). And while defendants
19 correctly note that plaintiff did not seek leave to amend until
20 after the discovery cutoff date had passed, they cite no
21 authority for the proposition that a proposed amendment filed
22 after the discovery cutoff date is per se not diligent.

23 Defendants also contend that they would be prejudiced
24 by amendment because plaintiff's failure-to-train and
25 ratification claims are new theories of which they lacked notice
26 and on which they did not conduct discovery. (Defs.' Opp'n at
27 5.) However, plaintiff's initial Complaint did include a section
28 with a heading, in bold lettering, reading "Twin Falls County Is

1 Liable.” (Compl. at 13.) That section alleges that Twin Falls
2 County was under the “direction and control” of Sherriff Tom
3 Carter, (id. ¶ 166), that the conduct detailed in the complaint
4 was a “product of the policies or customs implemented by Twin
5 Falls County,” (id. ¶ 167), and that these policies or customs
6 included, inter alia, “failure to appropriately train jail
7 personnel,” (id. ¶ 169).

8 At a bare minimum, those allegations placed defendants
9 on notice of the potential need to take discovery on whether Twin
10 Falls County failed to adequately train its employees, whether
11 those employees’ conduct was pursuant to an official custom or
12 practice, and how Carter and other employees “direct[ed] and
13 control[led]” their subordinates. (See id. ¶ 166.) Further,
14 even if the initial Complaint did not use the term
15 “ratification,” it still alleged the essential elements of a
16 ratification claim--namely, that Carter, an official with final
17 policymaking authority, approved of the actions of subordinates
18 who were subject to his direction and control. See City of St.
19 Louis v. Prapotnik, 485 U.S. 112, 128 (1988). And because any
20 information relating to Carter’s alleged ratification of the
21 behavior of his subordinates is presumably within defendants’
22 control, they would not be prejudiced by plaintiff’s assertion of
23 a ratification theory even if plaintiff had not alleged the
24 elements of that theory in the initial Complaint.

25 Accordingly, because plaintiff has demonstrated “good
26 cause” to amend his Complaint, see Fed. R. Civ. P. 16(b), the
27 court will grant his motion for leave to file an amended
28 Complaint.

1 As the court indicated at oral argument, plaintiff's
2 proposed amendments may impact several summary judgment motions
3 that are currently pending. Because plaintiff no longer asserts
4 a state-law spoliation claim in his amended Complaint, the court
5 will deny as moot defendant's motion for summary judgment on that
6 claim, (see Docket No. 24), and will do so without prejudice to a
7 later motion seeking a jury instruction related to spoliation or
8 other discovery sanctions. In addition, plaintiff agreed at oral
9 argument to withdraw without prejudice its motion for summary
10 judgment concerning defendant's affirmative defenses. (See
11 Docket No. 26.) The court will therefore deny that motion
12 without prejudice to an analogous motion based on defendant's
13 answer to the amended Complaint.

14 Defendants have also moved for summary judgment on
15 plaintiff's deliberate indifference claim. (Docket No. 23.)
16 Plaintiff's proposed amended Complaint asserts a deliberate
17 indifference claim only against the individual-capacity
18 defendants, and not against Carter or Twin Falls County. At oral
19 argument, the parties agreed that the pending summary judgment
20 motion is applicable to that claim, but disputed whether it is
21 applicable to the failure-to-train or ratification claims to the
22 extent that those claims are predicated on deliberate
23 indifference to plaintiff's medical needs. Because the summary
24 judgment motion only concerns the claim as it is pled against the
25 individual-capacity defendants, the court's resolution of that
26 motion would not preclude defendants from bringing a later motion
27 for summary judgment on plaintiff's ratification and failure-to-
28 train claims. The court will therefore consider the pending

1 motion for summary judgment on plaintiff's deliberate
2 indifference claim, and will inform the parties if it believes
3 that oral argument will be of material assistance.

4 In light of its decision to grant leave to amend, the
5 court will grant defendants leave to conduct additional discovery
6 and to file additional motions on plaintiff's failure-to-train
7 and ratification claims. In the event that the parties cannot
8 agree upon an amended discovery deadline and dispositive motions
9 deadline, or in the event they cannot agree upon the scope or
10 extent of additional discovery necessary to allow defendant to
11 respond to the new allegations, either plaintiff or defendants
12 may request that the court extend or define the terms of the
13 discovery and/or dispositive motion deadline.

14 IT IS THEREFORE ORDERED that plaintiff's motion for
15 leave to file an amended complaint be, and the same hereby is,
16 GRANTED.

17 IT IS FURTHER ORDERED that plaintiff's motion for
18 summary judgment on defendants' affirmative defenses be, and the
19 same hereby is, DENIED without prejudice.

20 IT IS FURTHER ORDERED that defendants' motion for
21 summary judgment on plaintiff's spoliation claim be, and the same
22 hereby is, DENIED AS MOOT without prejudice to later arguments
23 concerning appropriate sanctions for spoliation of evidence.

24 Plaintiff shall file an amended complaint within seven
25 days of the date this Order is signed. The parties shall file a
26 stipulation setting forth an amended discovery deadline and
27 amended dispositive motions deadline, or a joint statement that
28 they cannot agree on those dates, within fourteen days of the

1 date this Order is signed.

2 Dated: April 22, 2014

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4 WILLIAM B. SHUBB
5 UNITED STATES DISTRICT JUDGE
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