

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

ROBERT PURBECK,

Plaintiff,

v.

RODERICK COFFIN III, JAMES  
PINETTE, and ADA COUNTY,

Defendant.

Case No. 1:21-cv-00047-BLW

**MEMORANDUM DECISION  
AND ORDER**

**INTRODUCTION**

Before the Court is Roderick Coffin III's and James Pinette's motion to amend the scheduling order and for leave to file an amended answer (Dkt. 69). For the reasons set forth below, the Court will grant the motion.

**BACKGROUND**

In January 2021, Mr. Purbeck filed this § 1983 action alleging various violations of his constitutional rights relating to the execution of a search warrant at his home in 2019. *Complaint*, Dkt. 1. The search warrant was executed pursuant to a cybercrime investigation by the United States Attorney's Office for the Northern District of Georgia. *Motion at 2*, Dkt. 69-1. In March 2021, after the

filing of this lawsuit, Mr. Purbeck was indicted in the United States District Court for the Northern District of Georgia on several charges related to the cybercrime investigation. *Id.*

In December 2021, Mr. Purbeck filed three motions to suppress and a motion to dismiss in the criminal proceeding. *Id.* at 3. After an evidentiary hearing, the Magistrate Judge issued an R&R recommending the denial of all of Mr. Purbeck's motions and Mr. Purbeck objected. *Id.* at 4. In July 2023, the District Court for the Northern District of Georgia issued an order adopting the R&R and overruling Mr. Purbeck's objections. *Id.* That order was initially filed under seal but was unsealed on August 2, 2023. *Id.* Mr. Coffin and Mr. Pinette then filed this motion on August 18, 2023, seeking to amend their answer to include the affirmative defense collateral estoppel based upon the District Court's findings in the order adopting the R&R. *Id.* at 9. Mr. Purbeck did not file a response to the motion, so the motion is unopposed.

### **ANALYSIS**

The deadline set forth in the Scheduling Order for amending the pleadings has passed. Therefore, Rule 16 governs whether Mr. Coffin and Mr. Pinette will be permitted to amend their answer. *Johnson v. Mammoth Recreation, Inc.*, 975 F.2d 604, 608 (9th Cir. 1992); Fed. R. Civ. Proc. 16(b). "A party seeking to amend a

pleading after the date specified in the scheduling order must first show good cause for amendment under Rule 16, then if good cause be shown, the party must demonstrate that amendment was proper under Rule 15.” *Johnson*, 975 F.2d at 608 (internal citations omitted). The “good cause” standard under Rule 16 focuses primarily on the “diligence of the party seeking the amendment” but “a court may also consider the existence or degree of prejudice to the party opposing the modifications.” *Id.* (internal citations omitted).

Here, Mr. Coffin and Mr. Pinette did not display a lack of diligence. The deadline to file amended pleadings set by the scheduling order was June 1, 2023, at which point the District Court in Georgia had not issued its order on Mr. Purbeck’s motions. Because the basis for the amendment did not exist prior to the expiration of the deadline to amend pleadings, Mr. Coffin and Mr. Pinette could not have filed the amended pleading before the deadline. Once Mr. Coffin and Mr. Pinette discovered the unsealed order, they filed the present motion within about two weeks.

Mr. Purbeck will not suffer any prejudice as a result of the amended answer. Collateral estoppel is a legal defense, so very little, if any, additional discovery is required. To the extent Mr. Purbeck finds additional discovery is necessary, the discovery period has not yet closed and will not close until November 8, 2023. As

such, the motion to amend the scheduling order and leave to amend is granted.

## ORDER

### IT IS ORDERED that:

1. Mr. Coffin's and Mr. Pinette's Motion to Amend Scheduling Order and for Leave to Amend Answer (Dkt. 69) is **GRANTED**. The Scheduling Order is hereby amended to permit Mr. Coffin and Mr. Pinette to amend their answer to add a sixth affirmative defense. Mr. Coffin and Mr. Pinette shall file their Amended Answer no later than **September 29, 2023**.



DATED: **September 22, 2023**

A handwritten signature in black ink, appearing to read "B. Lynn Winmill", is written over a horizontal line.

**B. Lynn Winmill**  
U.S. District Court Judge