

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ANTAEUS ANDERSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 1:16-cv-00794-TWP-DML
	)	
JOSHUA SHAVER,	)	
	)	
Defendant.	)	

**Entry**

The plaintiff's motion to amend [dkt 25] is **denied**. First, the motion is not accompanied by a proposed amended complaint as required by Local Rule 15-1. In addition, the motion is untimely. Generally, a motion for leave to amend a complaint is evaluated under Federal Rule of Civil Procedure 15(a)(2). That rule provides that courts "should freely give leave when justice so requires." *See also Soltys v. Costello*, 520 F.3d 737, 742–43 (7th Cir. 2008) (discussing the standard). However, the rule is in some tension with the rule that governs scheduling orders, Federal Rule of Civil Procedure 16. Under the rule, district courts are generally required to issue scheduling orders in their cases as soon as practicable. Fed.R.Civ.P. 16(b)(2). And courts are required in a scheduling order to set a deadline for filing amended pleadings. Fed.R.Civ.P. 16(b)(3)(A). *Alioto v. Town of Lisbon*, 651 F.3d 715, 719 (7th Cir. 2011). Because the motion to amend was filed after the deadline set forth in the scheduling order of October 24, 2016, the Court applies the heightened good-cause standard of Rule 16(b)(4) before considering whether the requirements of Rule 15(a)(2) are satisfied. *See id.* "Rule 16(b)'s 'good cause' standard primarily considers the diligence of the party seeking amendment." *Trustmark Ins. Co. v. Gen. & Cologne Life Re of Am.*, 424 F.3d 542, 553 (7th Cir. 2005) (quoting *Johnson v. Mammoth Recreations, Inc.*,

975 F.2d 604, 609 (9th Cir. 1992)). The plaintiff argues that the proposed new defendants also violated his rights, but he does not show or even argue that he exercised diligence in seeking to add these defendants.

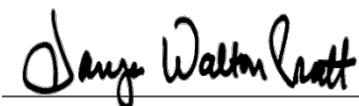
**IT IS SO ORDERED.**

Date: 12/19/2016

Distribution:

ANTAEUS ANDERSON  
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730 East Washington St.  
Indianapolis, IN 46202

All electronically registered counsel



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TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana