

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

ANTHONY HARVELL

PLAINTIFF

v.

CIVIL ACTION NO. 3:11CV-525-S

TERRIS L. ERVIN, et al.

DEFENDANTS

MEMORANDUM OPINION

This matter is before the court on motion of the plaintiff, Anthony Harvell, for leave to file a third amended complaint (DN 65) and the renewed motion of the third-party defendant, Sherry Patterson, to dismiss the third-party complaint (DN 72).

This action arose from an automobile accident between a semi-tractor-trailer operated by Terris L. Ervin and an automobile operated by Sherry Patterson. Harvell was a passenger in Patterson's vehicle at the time of the accident.

Harvell filed a personal injury suit against Ervin; Ervin's employer, Blair Logistics, LLC; and Sentry Casualty Company. Ervin and Blair Logistics filed a third-party complaint against Patterson. Harvell settled his claims with Ervin, Blair Logistics, and Sentry.

Patterson has filed a renewed motion to dismiss the third-party complaint against her. (DN 72). There has been no objection to the motion, so it will be granted.

Harvell moved for leave to file a third amended complaint on July 26, 2012 to name Patterson as a defendant and assert claims against her for negligence. Patterson objected on the

ground that the June 30, 2012 deadline for the amendment of pleadings had passed. Patterson urged that Harvell did not show “good cause” for his tardiness in seeking leave to amend, *citing Leary v. Daeschner*, 349 F.3d 888, 909 (6th Cir. 2003) and Fed.R.Civ.P. 16(b)(4). Harvell did not offer grounds for late filing in his motion, nor did he reply to Patterson’s objection. The motion for leave to file a third amended complaint will be denied, as good cause has not been shown for filing this motion out of time.

A separate order will be entered herein this date in accordance with this opinion.

IT IS SO ORDERED.

November 5, 2012



**Charles R. Simpson III, Judge
United States District Court**