

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MARCUS D. HILL (#310825)

VERSUS

CIVIL ACTION

TYRONE KILBOURNE, ET AL

NUMBER 11-778-FJP-SCR

**RULING ON MOTION FOR IDENTIFICATION OF JOHN DOES
AND MOTION FOR AMENDMENT OF DEFENDANTS**

**and
ORDER TO SERVE DEFENDANTS**

Before the court is the plaintiff's Motion for Identification of John Doe #1, 2 and 3, and Motion for Amendment of Defendants. Record document number 14.

Plaintiff moved to amend the complaint to identify Col. John Smith, Maj. Doug Stroughter and Capt. Jerry Babin as the three defendants previously identified as John Doe numbers 1, 2 and 3. Plaintiff also sought to amend the complaint a third time to add seven additional defendants.

A party has a right to amend a pleading one time if done within 21 days of its service. Rule 15(a)(1)(A), Fed.R.Civ.P. Later amendments are permitted "only with the opposing party's written consent or the court's leave." Rule 15(a)(2). A review of the record showed that the plaintiff filed his complaint on November 11, 2011, and amended the complaint on December 2, 2011.¹

¹ Record document numbers 1 and 7, respectively.

On February 22, 2012, the defendant MSgt. Tyrone Kilbourne filed an answer to the complaint.² Plaintiff did not obtain the written consent of defendant MSgt. Kilbourne to amend the complaint.

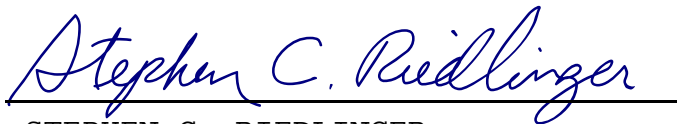
A review of the proposed amended complaint supports finding that the plaintiff should be granted leave of court to amend his complaint for the purpose on identifying Col. Smith, Maj. Stroughter and Capt. Babin as the three defendants previously identified as John Doe numbers 1, 2 and 3. Leave to amend his not warranted insofar as the plaintiff sought to add seven new defendants because the plaintiff did not allege any facts against the proposed new defendants.

Accordingly, the plaintiff's motion to amend the complaint to identify Col. John Smith, Maj. Doug Stroughter and Capt. Jerry Babin as the three defendants previously identified as John Doe numbers 1, 2 and 3 is granted. In all other respects, the motion is denied.

Therefore;

IT IS ORDERED that defendants Col. John Smith, Maj. Doug Stroughter and Capt. Jerry Babin be served with the amended complaint, record document number 7, in accordance with law.

Baton Rouge, Louisiana, March 30, 2012.



STEPHEN C. RIEDLINGER
UNITED STATES MAGISTRATE JUDGE

² Record document number 11.