

U. S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

MALIK MUHAMMAD ALI

CIVIL ACTION NO. 08-0192

VERSUS

JUDGE TOM STAGG

STEVE PRATOR, ET AL.

MAGISTRATE JUDGE HORNSBY

J U D G M E N T


In written objections to the Report and Recommendation of the Magistrate Judge previously filed herein, the plaintiff attempts to amend his complaint to add claims against two new parties. Plaintiff has been aware of the existence of these parties since before he commenced his lawsuit. A party's attempt to raise new theories of recovery by amendment when the opposing party has filed a motion for summary judgment is carefully scrutinized. See Little v. Liquid Air Corp., 952 F.2d 841, 846 and n.2 (5th Cir. 1992). The addition of claims against these new defendants would require further discovery and another motion for summary judgment, which would unduly prejudice the defendants. Over a year has passed between the filing of the complaint and the attempt to amend which could have been avoided by due diligence, as the plaintiff clearly could have raised the additional claims/defendants in his original complaint or at least sought to amend at an earlier time. See Layfield v. Bill Heard Chevrolet Co., 607 F.2d 1097, 1099 (5th Cir. 1979). The plaintiff bears the burden of showing that delay was due to "oversight, inadvertence or excusable neglect." Gregory v. Mitchell, 634 F.2d 199, 203 (5th Cir. 1981) (citation omitted). The plaintiff made no such

showing.

For these reasons and those assigned in the Report and Recommendation, and having thoroughly reviewed the record, including the written objections filed, and concurring with the findings of the Magistrate Judge under the applicable law;

IT IS ORDERED that the Motion for Summary Judgment (Doc. 26) filed by Sheriff Steve Prator and Nurse Kathy Bobbitt is **granted** and Plaintiff's complaint is **dismissed with prejudice**.

THUS DONE AND SIGNED at Shreveport, Louisiana, this the 12th day of June, 2009.


TOM STAGG
UNITED STATES DISTRICT JUDGE