

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LONNIE FENTRESS,

Plaintiff,

vs.

TRAVIS M. ROZEBOOM, in his
individual capacity;

Defendant.

8:17CV288

ORDER

This matter comes before the Court on the Motion for Leave to Amend Complaint and Add Party ([Filing No. 23](#)) filed by Plaintiff, Lonnie Fentress. Counsel for Defendant notified the Court that Defendant does not stipulate to Plaintiff's motion, but submitted the matter for the Court's determination without further briefing.

Under [Federal Rule of Civil Procedure 15](#), the Court should "freely give leave" to amend a pleading "when justice so requires." [Fed. R. Civ. P. 15\(a\)](#). Nevertheless, a party does not have an absolute right to amend and "denial of leave to amend may be justified by undue delay, bad faith on the part of the moving party, futility of the amendment or unfair prejudice to the opposing party." [Amrine v. Brooks, 522 F.3d 823, 833 \(8th Cir. 2008\)](#) (quotation and citation omitted).

The Court's Order for Initial Progression of the Case ([Filing No. 14](#)) provided January 1, 2018, as the deadline for parties to amend pleadings or add parties. Plaintiff timely filed the instant motion on December 29, 2017. ([Filing No. 23](#)). Plaintiff's proposed Amended Complaint contains the same three claims against Defendant and adds a fourth claim requesting a declaratory judgment against an additional defendant, the City of Blair, Nebraska. ([Filing No. 23-1](#)). Defendant Travis Rozeboom is employed as a law-enforcement officer with the police department of the City of Blair, and Plaintiff's proposed amended complaint arises out of the same events as alleged against Rozeboom in the original complaint. The Court has not yet held a planning conference in this matter, nor has a trial date been set. In consideration of the above, and considering that leave to amend should be freely given, the Court finds Plaintiff's motion should be granted. Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion for Leave to Amend Complaint and Add Party ([Filing No. 23](#)) is granted. Plaintiff shall file the Amended Complaint on or before January 16, 2018.
2. If either party believes the planning conference currently set for January 19, 2018, should be rescheduled to a date after the City of Blair, Nebraska, is added as a defendant and served with the Amended Complaint, they shall notify the undersigned magistrate judge on or before January 16, 2018.

Dated this 9th day of January, 2018.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge