

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

BILLY M. SMITH,

Plaintiff,

:

Case No. 3:10-cv-448

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

:

MONTGOMERY COUNTY
SHERIFF'S OFFICE, et al.,

Defendants.

ORDER REGARDING AMENDED COMPLAINT AND ADDITION OF A PARTY DEFENDANT

This case is before the Court on Plaintiff's Motion for Leave to File an Amended and Supplemented Complaint and to add Montgomery County, Ohio, as a defendant (Doc. No. 9). Because no answer has been filed in the case, Plaintiff does not need leave of court to amend. Accordingly, it is hereby ordered that the Clerk detach the proposed amended complaint from the Motion and file it separately.

The request for joinder of Montgomery County is granted without prejudice to a determination, once the Montgomery County Board of County Commissioners has been served with process, of whether it is a proper defendant in this case in that the sued individual Defendants are employees of the Montgomery County Sheriff, an independently elected public official.

March 23, 2011.

s/ **Michael R. Merz**
United States Magistrate Judge

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United States Magistrate Judge