

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MARGARET HICKS, as personal)	
representative of the Estate of)	
Cecil R. Arnold, deceased,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-16-532-M
)	
SHERIFF JOHN WHETSEL (“Whetsel”),)	
in his official capacity as Sheriff of)	
Oklahoma County, et al.,)	
)	
Defendants.)	

ORDER

Before the Court is plaintiff’s Motion for Leave to File Amended Complaint, filed November 21, 2016. On December 12, 2016, defendants Armor Correctional Health Services, Inc., Sheriff John Whetsel, and Major Jack Herron filed their responses.


On October 31, 2016, the Court entered an order granting defendants’ motions to dismiss and dismissing all claims against defendants Sheriff John Whetsel, Major Jack Herron, the Board of County Commissioners of Oklahoma County, and Armor Correctional Health Services. The Court further declined to exercise supplemental jurisdiction over plaintiff’s state law wrongful death claim against defendant Ragel Johnson and dismissed said claim without prejudice pursuant to 28 U.S.C. § 1367(c). Additionally, on October 31, 2016, the Court entered judgment dismissing this action. Plaintiff now moves this Court, pursuant to Federal Rule of Civil Procedure 15, for leave to file a second amended complaint.

The Tenth Circuit “has repeatedly and unequivocally held that [o]nce judgment is entered, the filing of an amended complaint is not permissible until judgment is set aside or vacated pursuant to Fed.R.Civ.P. 59(e) or 60(b).” *The Tool Box, Inc. v. Ogden City Corp.*, 419 F.3d 1084, 1087 (10th

Cir. 2005). In the case at bar, plaintiff has not sought to set aside or vacate the judgment entered on October 31, 2016. Accordingly, the Court finds that the filing of an amended complaint is not permissible.

The Court, therefore, DENIES plaintiff's Motion for Leave to File Amended Complaint [docket no. 35].

IT IS SO ORDERED this 3rd day of January, 2017.



VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE