

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

OLANIYAN ADEFUMI	:	CIVIL ACTION
	:	
v.	:	
	:	
DR. SHARON LIM	:	No. 15-1101

MEMORANDUM AND ORDER

J. WILLIAM DITTER, JR.

November 6, 2017

Before me is Plaintiff’s *pro se* motion to amend his First Amended Complaint to add two defendants, Mr. Semenetz and Mr. Wilkerson. Because the amendment is futile, Plaintiff’s motion will be denied.

Federal Rule of Civil Procedure Rule 15(a) provides that leave to amend a pleading “shall be freely given when justice so requires.”¹ *See Foman v. Petitioner*, 371 U.S. 178, 182 (1962). Such leave should be denied only in limited circumstances, as for example, where amendment is sought in bad faith, where it would unduly prejudice the opposing party or where the amendment would be futile. As ground for denial of leave to amend, “futility” means that the petition, as amended, would fail to state claim upon which relief could be granted.

In the instant case, Plaintiff fails to assert a claim of any wrongdoing by Mr. Semenetz or Mr. Wilkerson, the two new defendants he seeks to include in his complaint.

¹ Rule 15(a) also provides that a party may amend his pleading once as a matter of course at any time before a responsive pleading is filed. *Id.*; Fed.R.Civ.P. 15(a). Because this motion to amend has been received subsequent to receipt of the responsive pleading in this matter, I could not grant Plaintiff’s motion to amend on that basis.

As a result, Plaintiff's motion to amend will be denied as futile.²

An appropriate order follows.

² I also note that, once again, Plaintiff has ignored my specific instructions and has failed to comply with Federal Rule of Civil Procedure 10(b) requiring a party to "state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances." Fed. R. Civ. P. 10(b).