

United States District Court
Southern District of Texas

ENTERED

November 05, 2015

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JERRY BUTLER SMITH JR,

Plaintiff,

VS.

TDCJ PAROLE BOARD, *et al*,

Defendants.

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CIVIL ACTION NO. 2:15-CV-382

**OPINION AND ORDER DENYING MOTION FOR LEAVE TO AMEND
COMPLAINT**

Pending is Plaintiff's motion for leave to amend his complaint to add defendants (D.E. 34). Amendments before trial are governed by Rule 15(a) of the Federal Rules of Civil Procedure. A party may amend its pleading once as a matter of course within 21 days after serving it. FED. R. CIV. P. 15(a)(1)(A). In all other cases a party may amend its pleading only with the opposing party's written consent or the court's leave. FED. R. CIV. P. 15(a)(2). "The court should freely give leave when justice so requires." *Id.*

Determining when justice requires permission to amend rests within the discretion of the court. *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 330, 91 S.Ct. 795 (1971); *Nilson v. City of Moss Point, Miss*, 621 F.2d 117, 112 (5th Cir. 1980). The district court need not grant leave to amend if the amendment(s) sought would be futile. *Central Laborer's Pension Fund v. Integrated Elec. Svcs. Inc.*, 497 F.3d 546, 556 (5th Cir. 2007) (citing *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227 (1962)).

Plaintiff has already filed two supplements to his complaint (D.E. 17, 18), and he was given leave during the evidentiary hearing to add additional defendants. His case is

pending evaluation pursuant to 28 U.S.C. §§ 1915 and 1915A. In Plaintiff's most recent request to add defendants, he seeks to add all counselors at TDCJ's Glossbrenner Unit, as well as the commissary and laundry captains. As was explained to the Plaintiff during his evidentiary hearing, Plaintiff cannot bring claims on behalf of other inmates; he must file claims only as to violation of his rights. Plaintiff's amendments would be futile, as he has not stated a violation of his constitutional rights, nor has he been harmed by any of the wrongs he alleges.

Plaintiff's motion for leave to amend his complaint to add Defendants and claims (D.E. 34) is denied in all things.

ORDERED this 5th day of November, 2015.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE