

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

DEBORAH BYGUM, Administratrix
of the Estate of ERIC MICHELL
YOUNG, deceased,

Plaintiff,

v.

Civil Action No. 2:19-cv-00456

THE CITY OF MONTGOMERY,
the MONTGOMERY POLICE DEPARTMENT,
and ROGER L. KING, individually
as a member of the Montgomery
Police Department,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is a motion for leave to file an amended complaint, filed September 26, 2019 by plaintiff Deborah Bygum on behalf of the Estate of Eric Michell Young.

Plaintiff seeks leave to amend her complaint to (1) remove the Montgomery Police Department as a party, as stipulated, (2) remove certain claims, as stipulated, and (3) add claims against two additional parties, the City of Smithers, West Virginia and John Michael Hess, Sr. Plaintiff has attached the proposed Amended Complaint to her motion as Exhibit 1 and filed her motion in accordance with the deadlines set by the court's September 11, 2019 scheduling order. Defendants filed a response on October 10, 2019, in which they

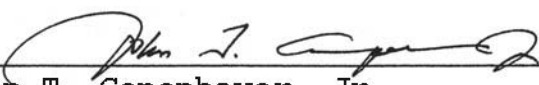
informed the court that they do not object to the amended complaint.

Federal Rule of Civil Procedure 15(a)(2), invoked by plaintiff, provides that a party who can no longer amend a pleading as of right can still amend by obtaining "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. In applying Rule 15(a), "[t]he law is well settled that leave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile." Edwards v. City of Goldsboro, 178 F.3d 231, 242 (4th Cir. 1999) (quoting Johnson v. Oroweat Foods Co., 785 F.2d 503, 509 (4th Cir. 1986)).

In the absence of any suggestion by defendants that the amended complaint results in prejudice or was motivated in bad faith, it is ORDERED that plaintiff's motion be, and it hereby is, granted. The clerk is directed to file the proposed amended complaint as the amended complaint in this case.

The Clerk is requested to forward copies of this order to all counsel of record and to any unrepresented parties.

DATED: November 8, 2019



John T. Copenhaver, Jr.
Senior United States District Judge