

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ROBBIN STEWART,)
)
 Plaintiff,)
 v.) Cause No.: 1:18-cv-1487-RLY-DML
 MARION COUNTY ELECTION BOARD,)
 MYLA ELDRIDGE, and STEVEN ROSE,)
)
 Defendants.)

**DEFENDANT’S RESPONSE IN OPPOSITION TO PLAINTIFF’S MOTION FOR
LEAVE TO AMEND COMPLAINT**

Marion County Election Board, Myla Eldridge, and Steven Rose (“Defendants”), by counsel, respond to the Plaintiff’s Motion for Leave to Amend Complaint and respectfully request that the Court deny that Motion. In support of this Response, the Defendants state as follows:

I. PLAINTIFF’S PROPOSED AMENDED COMPLAINT

Plaintiff Robbin Stewart originally filed his Complaint against the Defendants in state court before the Defendants removed it to this federal court. (Dkts. 1-4.) His original Complaint includes thirteen numbered counts for relief against the Defendants. (Complaint, Dkt. 4, at 2-4.) Stewart’s Complaint introduction summarizes his claims against the Defendants: “This case arises out of the refusal by precinct officials to allow plaintiff to cast a provisional ballot at the 2016 primary, and the subsequent ratification of that action by the county.” (Dkt. 4 at 1.) Stewart essentially alleges that he refused to present his state-issued driver’s license in order to vote during the May 2016 primary and was also refused a provisional ballot to cast. (*Id.*) He explains that this incident during the May 2016 primary violated his rights under “the voter ID

statute, the Indiana constitution, a federal statute, and the federal constitution.” (*Id.*) His original claims against the Defendants are expressly limited to events on May 3, 2016, when he attempted to vote in the presidential primary. (*Id.* at 2.) The incident allegedly occurred in one place – the polling place at the fire station near 300 North Sherman Avenue. (*Id.*)

The Court allowed Stewart to file a motion for leave to amend his Complaint following a status conference regarding the progress of this case. (*See* Dkt. 14.) He did so move and requested that he be allowed to amend his Complaint. (Dkt. 15-1.)¹ In this proposed Amended Complaint, Stewart explicitly attempts to add new Defendants, new factual allegations and events, and new legal claims entirely unrelated to the isolated incident mentioned in the original Complaint. (*See* Dkt. 15-1, ¶¶ 21-26, 28-35.)

The Amended Complaint seeks to add an entirely new set of facts to the claims that would presumably be against different, unnamed Defendants. (Dkt. 15-1, ¶ 21 “New incident.”) Counts fourteen and fifteen of the proposed Amended Complaint seeks to add new John-Doe Defendants for this new, separate incident. (*Id.*, ¶¶ 23-25.) This incident apparently occurred during the May 6, 2018, primary voting process. (*Id.*) Further, Stewart would like to add a “political literature claim” about two different political campaign signs he has in his front yard. (*Id.*, ¶¶ 26, 28.) It is unclear against which Defendants, if any, this claim would be brought, and the timeframes of this claim are equally unclear.

¹ Stewart had filed an Amended Complaint on his own, which was contrary to the Court’s Scheduling Order that required permission of the Court to amend the pleadings. (Dkt. 7 at 2.) That Amended Complaint was stricken by the Court. For clarity, this Response refers to Stewart’s proposed amendments as the Amended Complaint despite the document being styled as a “Second Amended Complaint.” (*See* Dkt. 15-1.)

II. PARTIES AND CLAIMS UNDER THE FEDERAL RULES OF CIVIL PROCEDURE

The rules governing joinder of parties and claims in a federal lawsuit, for the purposes of this matter, are most directly under Rules 18 and 20 of the Federal Rules of Civil Procedure (“FRCP”). Rule 18 of the FRCP deals with the joinder of claims, and Rule 20 deals with the permissive joinder of parties. “A party asserting a claim to relief as an original claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as alternate claims, as many claims, legal, equitable, or maritime, as the party has against an opposing party.” FED. R. CIV. PRO. 18(a). This generally means that multiple claims against a party are permissible, but “Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2.” *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). “Unrelated claims against different defendants belong in different suits” *Id.* The Court in *George* explained that a “buckshot complaint” where a plaintiff claimed “that A defrauded the plaintiff, B defamed him, C punched him, D failed to pay a debt, and E infringed his copyright, all in different transactions” would be rejected by the Court. *Id.* In general, the joinder of multiple parties in a lawsuit is permissible only when there is an issue arising among them out of the same transaction or occurrence and when a question of law or fact is common to all the parties. 7 FED. PRAC. & PROC. CIV. § 1653 (3d ed.).

In this matter, Stewart attempts to cloud his original Complaint with new Defendants and new incidents that are unrelated to his original pleading. First, adding another voting incident from the May 2018 primary would unnecessarily complicate the lawsuit. It creates an entirely new set of facts, requiring a whole separate line of discovery, Defendants, and other evidentiary matters. Although Stewart ultimately may have been denied a provisional ballot to cast in both instances, the factual details are totally different, and the parties involved are distinct. It would

not make sense to join these two instances – and it is probably not even necessary for a general claim related to casting a provisional ballot.

Second, Stewart’s “political literature claim” is wholly unrelated to a provisional ballot incident. A policy or practice related to political literature and yard signage promulgated by the Defendants (or some unnamed Defendants) is entirely distinct from events that happened at a polling place and casting or not casting a provisional ballot. This amendment, too, would create an entirely new line of discovery, adding unnecessary time and expense to the suit. It is evident Stewart has issues with the political system and players in Marion County and its elections, but it is improper to add all claims together and “take on the system” through one buckshot Complaint. The judicial purposes of lawsuit efficiency, expediency, and simplicity would not be served by allowing Stewart’s Complaint to be amended to join all these unrelated, separate Defendants and occurrences.

III. CONCLUSION

For the reasons stated above, the Defendants respectfully request that the Court deny Stewart’s Motion for Leave to Amend his Complaint, and for all other just and proper relief.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2018, a copy of the foregoing was filed electronically via the Court's system. Service of this filing will be made on the below via the United State Postal Service, first class mailing, postage prepaid:

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