

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

KERRY MARSHALL, Plaintiff,	:	CIVIL CASE NO. 3:11-cv-577 (JCH)
	:	
v.	:	
	:	
CITY OF MERIDEN, et al, Defendants.	:	MARCH 16, 2017
	:	

RULING RE: MOTION FOR LEAVE TO SUPPLEMENT COMPLAINT (DOC. NO. 158)

This case was filed on April 12, 2011. See Compl. (Doc. No. 1). It was administratively closed on August 26, 2011, pending resolution of the underlying state criminal case against the plaintiff, Kerry Marshall (“Marshall”). See Aug. 26, 2011 Order (Doc. No. 31). The court reopened this case on November 4, 2015. See Nov. 4, 2015 Endorsement Order (Doc. No. 45). On March 24, 2016, the court issued a Rule 16 Scheduling Order. See Scheduling Order (Doc. No. 78). The Scheduling Order stated that “[a]ny motion to amend the complaint [] will be filed by the plaintiff no later than APRIL 9, 2016. . . . Any motion to amend [] filed after th[is] date[] will be governed by the good cause standard of Fed. R. Civ. P. 16(b).” Id. at 1.

Marshall had included a Proposed Amended Complaint (Doc. Nos. 38-6) with his Motion to Reopen (Doc. No. 38). After reopening the case, the court ordered that Marshall’s Proposed Amended Complaint be docketed. See Dec. 3, 2015 Order (Doc. No. 49). On December 28, 2015, Marshall moved to amend his Amended Complaint (Doc. No. 50). See Dec. 28, 2015 Mot. to Amend (Doc. No. 55). The court granted permission to amend, see Ruling on Dec. 28, 2015 Mot. to Amend (Doc. No. 68) at 5, and Marshall’s Second Amended Complaint (Doc. No. 71) was thus docketed. Marshall has already been granted permission to amend his Corrected Second Amended

Complaint (Doc. No. 77) once since the issuance of the Scheduling Order.¹ See May 19, 2016 Endorsement Order (Doc. No. 93) (granting permission to amend outside time frame set in Scheduling Order although court found that “not particularly good cause [was] set forth.”).

On February 6, 2017, Marshall filed the instant Motion for Leave to Supplement Complaint (Doc. No. 158). The Motion is denied. The Motion is extremely tardy. In other circumstances, the court would likely overlook this fact and allow amendment, given that there was no dispositive motion pending at the time Marshall filed this Motion, and giving that Marshall is pro se. However, the proposed amendment is not related to the currently Operative Complaint. See Proposed Supp. Compl. (Doc. No. 158-2) ¶¶ 56, 59–65. Additionally, the Proposed Supplemental Complaint adds new defendants, see id. ¶¶ 52–53, and alleges facts occurring approximately six years after the facts alleged in the Corrected Second Amended Complaint, compare id. ¶ 59 with Corr. Second Am. Compl. ¶ 11. Given these facts, and given that this is such an old case, the proposed amendment should be disallowed.

For these reasons, the Motion for Leave to Supplement Complaint (Doc. No. 158) is **DENIED**. The currently Operative Complaint is that which was Operative before Marshall filed the instant Motion. Because a Third Amended Complaint was never docketed, the court now notes that **THE CURRENTLY OPERATIVE COMPLAINT CONSISTS OF THE CORRECTED SECOND AMENDED COMPLAINT (DOC. No. 77) WITH THE ADDITION OF “; AND 9. LOSS OF LIFE AND LIBERTY” AFTER THE**

¹ On March 24, 2016, the court docketed the Corrected Second Amended Complaint, due to an error in uploading the Second Amended Complaint. See Mot. to Correct (Doc. No. 73).

LAST WORD IN PARAGRAPH 44.²

SO ORDERED.

Dated at New Haven, Connecticut, this 16th day of March, 2017.

/s/ Janet C. Hall
Janet C. Hall
United States District Judge

² Marshall had moved to include “loss of life and liberty” in the section of his Corrected Second Amended Complaint that lists injuries, see May 16, 2016 Mot. to Amend (Doc. No. 90) at 1, and, as discussed above, the court had granted his Motion. The May 16, 2016 Motion to Amend referred specifically to “the section entitled[] Injuries Incurred.” May 16, 2016 Mot. to Amend at 1. The Corrected Second Amended Complaint does not have a section with this exact title, but does have a section entitled “Injuries Sustained.” See Corr. Second Am. Compl. at 8. The only paragraph in this section is paragraph 44. See id. ¶ 44.