

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, WESTERN DIVISION AT DAYTON

Brian McComb v. Seth W. Paul, et al.

McComb v. Paul · No. 3:25-cv-252 · Decided March 18, 2026

SUMMARY

The United States District Court for the Southern District of Ohio granted pro se Plaintiff Brian McComb leave to file a first amended complaint and instructed the Clerk to docket it. The Court denied Defendants’ motion for judgment on the pleadings without prejudice because it was premature, and terminated as moot Plaintiff’s motions for an extension of time and leave to file excess pages.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Western Division at Dayton
WRITING FOR THE COURT	Michael J. Newman
JURISDICTION	United States District Court for the Southern District of Ohio, Western Division at Dayton
DECIDED	March 18, 2026
DOCKET	3:25-cv-252
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to file a first amended complaint while defendants' motion for judgment on the pleadings was pending. The court granted leave to amend, directed the Clerk to docket the amended complaint, denied defendants' motion without prejudice as premature, and terminated related motions as moot.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 15(a)(2), leave to amend should be freely granted when justice so requires.
PRECEDENTIAL VALUE	Unknown

TOPICS

- motion to amend
- motion for judgment on the pleadings
- pleadings
- civil procedure
- section 1983

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff should be granted leave under Federal Rule of Civil Procedure 15(a)(2) to file a first amended complaint.
2. Whether defendants' motion for judgment on the pleadings should be decided before the amended complaint was docketed.
3. Whether plaintiff's motions for an extension of time and leave to file excess pages remained necessary after leave to amend was granted.

HOLDINGS

1. Leave to file the first amended complaint should be granted because amendments are freely granted when justice so requires, and the court found good cause and interests of justice and efficiency supporting amendment.
2. Defendants' motion for judgment on the pleadings was premature and was denied without prejudice because the court granted leave to amend the complaint.
3. Plaintiff's motion for an extension of time to respond and motion for leave to file excess pages were terminated as moot after the court granted leave to amend and denied the motion for judgment on the pleadings without prejudice.

KEY QUOTATIONS

“For good cause shown, in the interests of justice and efficiency, and because amendments to a complaint are freely granted as justice so requires, the Court GRANTS Plaintiff’s motion for leave to file an amended complaint.” (Order)

“Given the Court’s ruling, Defendants’ pending motion for judgment on the pleadings is premature and DENIED WITHOUT PREJUDICE.” (Order)

FACTUAL BACKGROUND

The opinion does not resolve the underlying factual allegations of the civil-rights action. Plaintiff Brian McComb sought leave to file a first amended complaint while defendants' motion for judgment on the pleadings was pending. The court determined that amendment should be allowed before addressing the pleadings-based dispositive motion.

PROCEDURAL HISTORY

Defendants Seth W. Paul, John B. Perry, and the West Carrollton Police Department moved for judgment on the pleadings. Plaintiff moved for an extension of time to respond, leave to file excess pages, and leave to file a first amended complaint with a proposed amended complaint. The court granted the motion to amend, instructed the Clerk to separately docket the amended complaint, denied the motion for judgment on the pleadings without prejudice, and terminated the other two motions as moot.

DISPOSITION

other

CASES CITED

- Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam)
- Parchman v. SLM Corp., 896 F.3d 728, 736-37 (6th Cir. 2018)

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF OHIO WESTERN DIVISION AT DAYTON BRIAN MCCOMB, Plaintiff, Case No. 3:25-cv-252 vs. SETH W. PAUL, et al., District Judge Michael J. Newman, Magistrate Judge Caroline H. Gentry Defendants.

ORDER: (1) GRANTING PRO SE PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO FILE HIS FIRST AMENDED COMPLAINT (Doc.

No. 21); (2) INSTRUCTING THE CLERK TO DOCKET THE FIRST AMENDED COMPLAINT (Doc. No. 21-1); (3) DENYING WITHOUT PREJUDICE DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS (Doc. No. 15); AND (4) TERMINATING AS MOOT PLAINTIFF'S MOTION FOR AN EXTENSION OF TIME TO RESPOND TO DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS (Doc. No. 17) AND HIS MOTION FOR LEAVE TO FILE EXCESS PAGES (Doc.

No.

18)

This civil case is before the Court upon Defendants Seth W. Paul, John B. Perry, and West Carrollton Police Department's (collectively "Defendants") motion for judgment on the pleadings. Doc. No. 15. Pro se Plaintiff Brian McComb¹ has filed a motion for an extension of time to respond to Defendants' motion (Doc.

No. 17), and Defendants have filed a memorandum in opposition (Doc. No. 19). Plaintiff also filed a motion for leave to file excess pages. Doc. No. 18. Finally, Plaintiff filed a motion for leave to file his first amended complaint with an attached proposed amended complaint. Doc. Nos. 21, 21-1.

For good cause shown, in the interests of justice and efficiency, and because amendments to a complaint are freely granted as justice so requires, the Court GRANTS Plaintiff's motion for 1 As with all pro se litigants, Plaintiff's documents and allegations are liberally construed in his favor. See Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam). leave to file an amended complaint.

Fed. R. Civ. P. 15(a)(2); see generally *Parchman v. SLM Corp.*, 896 F.3d 728, 736-37 (6th Cir. 2018). The Court INSTRUCTS the Clerk to separately docket the first amended complaint. Doc. No. 21-1. Given the Court's ruling, Defendants' pending motion for judgment on the pleadings is premature and DENIED WITHOUT PREJUDICE.

Accordingly, Plaintiff's motion for an extension of time to respond and his motion for leave to file excess pages are both TERMINATED AS MOOT. IT IS SO ORDERED. March 18, 2026
s/Michael J. Newman Hon. Michael J. Newman United States District Judge