

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

CLARENCE WOOTEN,

Plaintiff,

v.

**UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS
CITY, KANSAS,**

Defendant.

CIVIL ACTION

No. 03-2138-CM

MEMORANDUM AND ORDER

On March 15, 2004, the court entered the final Pretrial Order governing this case. A week after issuance of the final Pretrial Order, plaintiff, who appears pro se, asks that additional allegations be added. This matter is before the court on plaintiff's Motion to Amend Pretrial Order (Doc. 46).

Local Rule 16.2 states that the pretrial order, when it has been approved by the court and filed with the clerk, "will control the subsequent course of the action." D. Kan. Rule 16.2(c). The rule allows modification of a pretrial order "by consent of the parties and court, or by an order of the court to prevent manifest injustice." *Id.* Defendant does not consent to plaintiff's proposed amendments. The court therefore turns to whether plaintiff can establish manifest injustice.

The only justification provided by plaintiff for his proposed amendment is his pro se status. However, the law is clear that a litigant's pro se status does not confer special exemption from court deadlines or rules. *Hammad v. Bombardier Learjet, Inc.*, 192 F. Supp. 2d 1222, 1229 (D. Kan. 2002)

("[T]he fact that plaintiff is proceeding pro se does not excuse his noncompliance with every litigant's duty to comply with the fundamental rules of procedure.').

Initially, the Scheduling Order mandated that the Unified Government submit the parties' proposed Pretrial Order prior to the final Pretrial Conference. In preparing the proposed Pretrial Order, plaintiff apparently provided to the Unified Government additions, revisions, and changes to some ten different sections of the Pretrial Order. None of the changes requested included the amendments now at issue. Subsequently, the court held the final Pretrial Conference on February 27, 2004. Plaintiff failed to appear for the conference. Finally, the Pretrial Order distributed to the parties after the Pretrial Conference provided a last chance for the parties to suggest additions, changes or revisions prior to the filing of the Pretrial Order with the clerk. Plaintiff again suggested extensive revisions (Doc. 44), but none of the suggestions by plaintiff included the amendments now at issue.

The court has provided plaintiff with at least three separate opportunities to submit changes to the Pretrial Order. Plaintiff participated in two of these opportunities, but did not propose the amendments now at issue. Plaintiff's failure to propose the amended changes until after entry of the Pretrial Order is not excused by his pro se status.

Moreover, the Unified Government filed a Motion for Summary Judgment (Doc. 45) on March 22, 2004, the last day for dispositive motions. Plaintiff filed the instant motion on the same day. In formulating its summary judgment motion, the Unified Government contends that it relied upon the allegations set forth by the plaintiff in the final Pretrial Order. Had plaintiff timely included all of his allegations in the Pretrial Order, the Unified Government would have had sufficient notice of plaintiff's theories of recovery and claims they likely would have drafted a substantially different Motion for Summary Judgment. Allowing plaintiff to

add additional claims at this juncture would prejudice the Unified Government. Accordingly, the court denies plaintiff's request to amend the final Pretrial Order.

As previously stated, the Unified Government filed a Motion for Summary Judgment on March 22, 2004. Plaintiff has not yet responded to this motion. Plaintiff is hereby directed to file a response to defendants' motion on or before May 10, 2004. **Should plaintiff fail to timely file a response, defendant's Motion for Summary Judgment (Doc. 45) will be considered without the benefit of a response from plaintiff.**

IT IS THEREFORE ORDERED that plaintiff's Motion to Amend Pretrial Order (Doc. 46) is denied.

IT IS FURTHER ORDERED that plaintiff file a response to defendant's Motion for Summary Judgment (Doc. 45) on or before May 10, 2004.

Dated this 27th day of April 2004, at Kansas City, Kansas.

s/ Carlos Murguia _____
CARLOS MURGUIA
United States District Judge