

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-30918
Conference Calendar

MCKINLEY GABRIEL,

Plaintiff-Appellant,

versus

JAMES A. THERIOT; BERNARD BOUDREAUX, JR.;
BERNARD BOUDREAUX; ALLEN J. BLANCHARD, SR.,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 96-CV-243

October 19, 1999

Before JONES, SMITH, and STEWART, Circuit Judges.

PER CURIAM:*

McKinley Gabriel, Louisiana prisoner # 93796, challenges the district court's refusal to grant his motion to amend his civil rights complaint to add new defendants after summary judgment dismissing the case was granted. Gabriel concedes that he named the incorrect defendant but urges that amendment would be a more just result than dismissal, particularly since the district court indicated that his case has merit.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

At the time summary judgment was granted, this case had been pending for more than two years, and the summary-judgment motion had been pending for four months. Gabriel had been granted an extension of time within which to respond to the defendant Allen Blanchard's summary-judgment motion, but he did not file a response. Gabriel had previously amended his complaint to add a new defendant. He has not given any reason for failing to seek to amend his complaint to add the new defendants named in his motion to amend until after summary judgment was granted dismissing his claims. Accordingly, he has failed to demonstrate that the district court abused its discretion in refusing to allow postjudgment amendment. See *Bridle v. Scott*, 63 F.3d 364, 379-80 (5th Cir. 1995).

AFFIRMED.