

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MARY K. LYON,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 2:08cv394-WHA
)	
WILLIAM ROBERT ASHURST, <i>et al.</i> ,)	(WO)
)	
Defendants.)	

ORDER

This cause is before the court on an Objection to Ruling; Motion to Amend or Vacate Portions of the Order (Doc. #20), filed on behalf of the Plaintiff, Mary K. Lyon (“Lyon”), on August 22, 2008.

This case was filed on May 28, 2008. Following briefing on a Motion to Dismiss (Doc. #9), filed by the Defendants, the court entered an order on August 13, 2008 (Doc. #18). The court resolved the Motion to Dismiss by dismissing with prejudice certain claims conceded by the Plaintiff in her Response to the Motion to Dismiss, and also dismissing the remaining claims, some with and some without prejudice. On August 22, 2008, the Plaintiff filed her Amended Complaint (Doc. #19) which aimed to cure defects discussed in the court’s order. In addition to the Amended Complaint, the Plaintiff filed her Motion to Amend or Vacate Portions of Order asking that the court reconsider its dismissal with prejudice of the Plaintiff’s federal claims under 42 U.S.C. § 1983 for violation of her First Amendment rights, and of the Plaintiff’s state law claim of defamation.

The Plaintiff concedes that the defamation claim as set out under Count III of the Complaint is barred by the Statute of Limitations, and, as such, it was dismissed with prejudice. In her Motion to Amend or Vacate Order, Lyon alleges alternative theories for her defamation claim, not set forth in Count III, or any other Count, of the Complaint. It is not the court's place to expand a clear claim in a complaint to include additional claims. The unequivocal and only claim made by the Plaintiff in Count III was one as to which the Statute of Limitations had run. Accordingly, that claim was dismissed with prejudice. If the Plaintiff wishes to assert new defamation claims, the proper way to do so is to file a motion to amend the complaint, and not through a Motion to Vacate.

All other arguments set forth in Plaintiff's motion have already been duly addressed by this court in its original order, and are without merit.

ORDERED that the Motion to Amend or Vacate Order is DENIED.

DONE this 12th day of September, 2008.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE