

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

JERRY RANDOLPH MCBEE, *
#105 694, *
Plaintiff, *

v. *

ALABAMA DEPT. OF CORR., *et al.*, *

Defendants. *

2:11-CV-73-TMH
(WO)

ORDER

This case is pending before the court on a 42 U.S.C. § 1983 complaint filed by Plaintiff, a state inmate currently confined at the Staton Correctional Facility. The complaint, however, is deficient inasmuch as it does not name a proper defendant. Accordingly, it is

ORDERED that on or before **February 23, 2011** Plaintiff shall file an amended complaint on a form for use in filing a 42 U.S.C. § 1983 complaint. *See* Local Rule 9.1 (requiring *pro se* litigants to utilize court's forms). *The amended complaint filed in compliance with this order shall supersede the original complaint.* This means that Plaintiff shall no longer rely on the original complaint and this case will proceed only on those claims raised and against those defendants named in the amended complaint filed in accordance with the order.

It is further ORDERED that Plaintiff's amended complaint shall:

1. Names the individual(s) who allegedly violated his constitutional rights;

2. Identify specific claims relative to *actions taken against him* by those persons named as defendants and list these claims in separate counts;

3. Describe with clarity those factual allegations that are material to each specific count against the named defendants; and

4. Describe how the named defendants violated *his* constitutional rights.

Plaintiff is hereby advised that the amendment to his complaint must set forth short and plain statements showing why he is entitled to relief and be specific enough to put each defendant on notice of how their conduct allegedly violated Plaintiffs' constitutional rights and should contain only claims relative to actions taken against him by the named defendants. "Federal Rule of Civil Procedure 8(a)(2) requires only 'a short and plain statement of the claim showing that the pleader is entitled to relief.' Specific facts are not necessary, rather the statement need only "'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" *Bell Atlantic Corp. v. Twombly*, 550 U.S. 555, 127 S.Ct. 1955, 1964 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). "Plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.* at 1965 (citing *Papasan v. Allain*, 478 U.S. 265, 286 (1986) (on a motion to dismiss, courts "are not bound to accept as true a legal conclusion couched as a factual allegation"))).

Plaintiff is advised that his failure to timely and properly comply with the directives contained in this order will result in a Recommendation that this action be dismissed.

