

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

JAMIE L. HAMMOND, formerly)	
Jamie L. Edmondson, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 2:11-CV-1045-WKW
)	[WO]
J. C. WEST, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Before the court is Defendant J. C. West’s Motion for Judgment on the Pleadings, filed pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. (Doc. # 29.) Defendant West, a former chief of the City of Eufaula Police Department, contends that Plaintiffs’ federal and state law claims against him “are barred, in whole” by the court’s Order granting the other Defendants’ Rule 12(b)(6) motion to dismiss. (Doc. # 29, at 1.) In response, Plaintiffs adopt the prior arguments they made in opposition to the motion to dismiss. (Doc. # 31.) After careful consideration and Plaintiffs’ having made no new arguments with respect to the claims against Mr. West, the court finds that Mr. West’s motion is due to be granted for the same reasons stated in the court’s prior Order (Doc. # 27).

The court also makes one additional finding. In their briefing on the motion to dismiss, Plaintiffs relied upon the Fourteenth Amendment's due process clause. (Doc. # 25, at 11; *see also* Doc. # 26, at 11-12.) A due process claim is not plausibly alleged in the Complaint in any form, however. In fact, the phrase "due process" is wholly absent from the Complaint, and the law is well established that "[a] plaintiff may not amend h[is] complaint through argument in a brief opposing summary judgment." *Gilmour v. Gates, McDonald & Co.*, 382 F.3d 1312, 1315 (11th Cir. 2004).

Accordingly, it is ORDERED that Defendant J. C. West's Motion for Judgment on the Pleadings (Doc. # 29) is GRANTED.

A separate judgment will be entered.

DONE this 26th day of December, 2012.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE