

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

JAMES KEN ANDERSON,
ADC #99355

PLAINTIFF

v.

NO. 5:11CV00258 JLH/BD

RAY HOBBS, Director,
Arkansas Department of Correction, *et al.*

DEFENDANTS

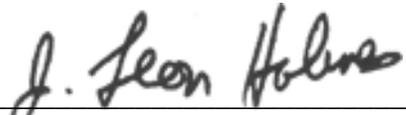
AMENDED ORDER

The Partial Recommended Disposition from Magistrate Judge Beth Deere has been received. Magistrate Judge Deere recommended that Roland Anderson's motion to dismiss be denied and James Ken Anderson's motion for temporary restraining order and preliminary injunction also be denied. James Ken Anderson has not objected to the portion of the Partial Recommended Disposition recommending that his motion for temporary restraining order and preliminary injunction be denied. Roland Anderson has, however, objected to Magistrate Judge Deere's recommendation that his motion to dismiss be denied. Dr. Anderson's objection is that the third amended complaint does not state a claim against him, but Magistrate Judge Deere recommended that his motion to dismiss be denied taking into account allegations in the original and first amended complaints. Dr. Anderson points out that it is well established that an amended complaint supersedes an original complaint and renders the original complaint without legal effect. *See In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005). While it is generally considered that an amended complaint supersedes the original complaint, the Federal Rules of Civil Procedure do not expressly so state. The local rules require a party that amends a pleading to restate the entire pleading in the amendment, but that requirement does not apply to parties proceeding *pro se*. *See* Local Rule 5.5(e). In this district, as in other districts, the Court commonly considers allegations by *pro se* litigants in earlier complaints

even when amended complaints are filed. *Phillip v. Atlantic City Med. Ctr.*, ___ F. Supp. 2d ___, 2012 WL 959794, *1 n.9 (D.N.J. March 20, 2012); *Spotsville v. Miller*, 2011 WL 2180643, *2 (S.D. Tex. June 3, 2011); *Littlejohn v. SF City*, 2010 WL 5158330, *1 n.3 (N.D. Cal. Dec. 14, 2010); *King v. Beard*, 2010 WL 3338833, *2 (W.D. Pa. July 26, 2010); *Robinson v. Secretary*, 2010 WL 2431843, *1 n.1 (M.D. Fla. June 15, 2010).

Without objection, the recommendation that James Ken Anderson's motion for temporary restraining order and preliminary injunction be denied is approved and adopted in all respects as the ruling of this Court. Based upon *de novo* review, the recommendation that Roland Anderson's motion to dismiss be denied is approved and adopted as the ruling of this Court. Roland Anderson's motion to dismiss and James Ken Anderson's motion for temporary restraining order and preliminary injunction (Documents #160 and #179) are DENIED.

IT IS SO ORDERED this 29th day of May, 2012.


UNITED STATES DISTRICT JUDGE