

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

PETE MCMANUS,

Plaintiff,

v.

CASE NO. 1:08-cv-00110-MP-AK

JOHN CHERRY, CITY OF GAINESVILLE, GAINESVILLE FLORIDA HOUSING
CORPORATION INC, GAINESVILLE HOUSING AUTHORITY, PEGEEN HANRAHAN,
SHIRLEY JONES,

Defendants.

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ORDER

This matter is before the Court on Doc. 74, a motion to appeal the Magistrate Judge's order denying plaintiff's motion to file a fourth amended complaint, and Doc. 75, a renewed motion to file a fourth amended complaint. The Fourth Amended Complaint, Doc. 76, is far more specific than the previous ones, and using it as the charging document in this case would benefit the litigation. Additionally, while the Court passes no judgment on whether the Fourth Amended Complaint will survive a motion to dismiss, the Court disagrees with the Magistrate Judge that the document does not rise above mere speculation. Instead, it has specific factual allegations and a statement of the specific laws allegedly violated. Thus, mindful of the exhortation in Rule 15 that leave to amend should be freely given, the Court finds that the amendment would not be futile. Accordingly, it is hereby

ORDERED AND ADJUDGED:

The Magistrate Judge's order at Doc. 68 is vacated, and Doc. 75, the motion for leave to file the Fourth Amended Complaint, is granted.

The Fourth Amended Complaint, at doc. 76, is hereby deemed the charging document in

this case.

The motions to dismiss, Docs. 51 and 52, which refer to a prior version of the complaint are denied as moot.

Pursuant to Fed. R. Civ. P. 15(a)(3), the Court orders that the Defendants shall respond to the Fourth Amended Complaint, Doc. 76, by Friday, February 26, 2010.

The instant order terminates the motion to appeal at Doc. 74.

DONE AND ORDERED this 28th day of January, 2010

s/Maurice M. Paul
Maurice M. Paul, Senior District Judge