

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

KEITH D. STRUNIN,

Plaintiff,

v.

CASE NO.: 1:08cv197-SPM/AK

SADIE DARNELL, in her  
Official capacity as Sheriff  
of Alachua County, Florida,

Defendant.

\_\_\_\_\_ /

**ORDER DENYING MOTION TO DISMISS AS MOOT**

In response to Defendant's motion to dismiss (doc. 5), Plaintiff has filed an amended complaint as he is entitled to do as a matter for course. See Brewer-Giorgio v. Producers Video, Inc., 216 F.3d 1281, 1284 (11th Cir. 2000) (a motion to dismiss is not a "responsive pleading" that triggers the requirement of leave of court to amend).

The amended complaint renders moot the motion to dismiss. If Defendant finds any deficiencies in Plaintiff's amended complaint, Defendant may file a motion to dismiss the amended complaint. Accordingly, it is

ORDERED AND ADJUDGED: Defendant's motion to dismiss (doc. 5) is denied as moot.

DONE AND ORDERED this 8th day of January, 2009.

*s/Stephan P. Mickle*

Stephan P. Mickle  
United States District Judge