

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

HAROLD HEMPSTEAD,

Plaintiff,

vs.

CASE NO. 4:07CV513-RH/AK

JOHN MCALPIN, et al,

Defendants.

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ORDER

Plaintiff has filed a motion for reconsideration of the Court's previous Order denying him leave to file a thirty five page complaint. (Doc. 46). He complains that he cannot fully state his claims with the limitations previously imposed and seeks leave to file a Fourth Amended Complaint (which would actually be the fifth complaint) to include additional claims and sixteen additional defendants. (Doc. 46). Having considered said motion and the proposed "fourth" amended complaint attached thereto, (doc. 47), the Court is of the opinion that it should be **DENIED**.

Plaintiff's proposed complaint, which would be the fifth complaint on the docket, contains pages of irrelevant facts concerning incidents for which the statute of limitations has run, which are already stated in the Fourth Amended Complaint on file, or are not specific enough to state claims.

For example, requests for protective management that were allegedly ignored in

2000, 2001, and 2002, are now barred by the statute of limitations. (See Doc. 47, pp. 8, 9, 10, 11, and 12). The facts provided to support his claim that he requested protective management from Defendants D-11 through D-13 (John and Mary Does) in March 2004, and they ignored him, are not specific enough to allow a response. (See Doc. 47, p. 14). Likewise with similar claims against Defendants Ham, Stevens and Dickson, at Jackson CI, and Defendants McAlpin, Speights, Holly, Dudley, and Cook at Washington CI, in which he offers no dates of the requests or other particulars that would enable the defendants to respond to the allegations against them. (See Doc. 47, p. 15). Plaintiff's claims of retaliation concerning his previous lawsuit, Case No. 5:06cv68-MCR/EMT and the allegations of excessive force to coerce his dismissal of this lawsuit (doc. 47, pp. 17, 18, and 19) are already included in the Fourth Amended Complaint on file. (See Doc. 43, pp. 10-12).

Thus, the proposed amended complaint would be futile and leave to file it is denied.

Finally, the Court has recommended by separate Report and Recommendation that the claims raised in the Fourth Amended Complaint (doc. 43) be dismissed for failure to state a claim **with two exceptions**. If this recommendation is adopted, the Court will order service of the Fourth Amended Complaint upon the defendants named in the two claims and limit the Defendants' obligation to respond to the pleading to those two claims.

DONE AND ORDERED this 9th day of October, 2008.

s/ A. KORNBLUM

ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE