

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

THOMAS EUGENE THORNE,

Plaintiff,

vs.

CASE NO. 4:09CV100-RH/AK

FREDERICK B. DUNPHY, et al,

Defendants.

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ORDER

Presently before the court is Plaintiff's Second Motion to Amend Complaint (doc. 17); Motion to Appoint counsel (doc. 18); and Defendants' Motion to Strike Plaintiff's service of interrogatories. (Doc. 20).

Plaintiff's motion to amend (doc. 17) is **DENIED** for the same reasons it was denied previously. (See Doc. 16). He again did not comply with the rules regarding amendments and submit a proposed pleading with his motion.

Plaintiff has moved for appointment of counsel. Appointment of counsel in a 1983 suit is not a right, it is a privilege and is justified only by exceptional circumstances, such as where the facts and legal issues are so novel or complex as to require the assistance of a trained practitioner. Fowler v. Jones, 899 F.2d 1088 (11th Cir. 1990). Plaintiff stated his claims sufficiently to have his complaint served upon the Defendants, and at this time the Court finds no exceptional circumstances to warrant appointment of counsel. Consequently, the motion (doc. 18) is **DENIED**.

Defendants' Motion to Strike (doc. 20) is **GRANTED**, but not for the reasons cited in the motion. This is not a habeas action and discovery will be allowed, but not prior to an answer being filed and entry of scheduling order. Plaintiff should await further instructions from the Court regarding discovery. Any discovery served by the Plaintiff prior to entry of a scheduling order can be disregarded.

DONE AND ORDERED this 29th day of May, 2009.

s/ A Kornblum
ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE