

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

BALLENGER CHARLES, JR.,

Plaintiff,

v.

CASE NO. 4:13cv467-RH/CAS

STATE OF FLORIDA, OFFICE OF THE
ATTORNEY GENERAL et al.,

Defendants.

ORDER GRANTING LEAVE TO AMEND THE COMPLAINT

The plaintiff is a terminated public employee who asserts claims under federal and state law against the State of Florida Office of the Attorney General and nine of its employees. The defendants have moved to dismiss on various grounds including some that invite the court to guess at the actual facts rather than to accept them as true. After thorough consideration, this order denies the motion to dismiss in all respects save one. No purpose would be served by an opinion addressing the various contentions.

In one respect the motion to dismiss is well founded: a state is not a “person” who can be sued under 42 U.S.C. § 1983. The plaintiff’s response to the motion to

dismiss concedes the point and asks leave to file an amended complaint naming the Attorney General in her official capacity. Such a claim may go forward, but only for prospective relief, not for damages.

For these reasons,

IT IS ORDERED:

The defendants' motion to dismiss, ECF No. 10, is GRANTED IN PART and DENIED IN PART. The federal claims against the State of Florida Office of the Attorney General are dismissed. The plaintiff may file an amended complaint by December 18, 2013.

SO ORDERED on December 4, 2013.

s/Robert L. Hinkle
United States District Judge