

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION

EDWIN F. WASHINGTON,  
Plaintiff,

vs.

Case No. 5:09cv35/RH/MD

G.G. MOLLROY, et al.  
Defendants.

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**ORDER**

This cause is before the court upon plaintiff's filing a pleading entitled "Motion to prohibit illegally excessive force and guard brutality with unsanitary dangerous or overly restrictive conditions." Plaintiff cites Fed.R.Civ.P. 60 and the Florida Rules of Criminal Procedure. Clearly, the Florida rules of court have no application within this jurisdiction. Because plaintiff's allegations concern conditions of his confinement, it appears that this case may be a civil rights complaint under 42 U.S.C. § 1983.

Plaintiff has failed to use forms provided by the court for filing this complaint. Local Rule 5.1(J) for the Northern District of Florida states that the court will not accept for consideration a complaint under section 1983 unless the appropriate complaint form is completed. Thus, plaintiff must file his complaint on the form for use in section 1983 cases, even if he wants to attach separate pages explaining the facts that underlie the complaint. However, plaintiff should not file a memorandum of law or otherwise provide citations to statutes and cases, and he should not file exhibits as evidentiary support for his complaint. It is no longer necessary for plaintiff to file proof of administrative exhaustion of his claims, but he should be aware that if he has not exhausted his administrative remedies, any unexhausted claims will be subject to dismissal.

To amend his complaint, plaintiff should completely fill out a new civil rights complaint form, marking it "**Amended Complaint**," and he should write this case number in the appropriate space. Plaintiff is advised that the amended complaint must contain **all** of his allegations, and it should not in any way refer to the original pleading. Once an amended complaint is filed, all earlier complaints are disregarded. Local Rule 15.1, Northern District of Florida.

Plaintiff has not submitted an application to proceed *in forma pauperis*. He shall either pay the \$350.00 filing fee or file an *in forma pauperis* application with supporting documentation on the proper court forms. The court will not process the complaint until this is done.

Accordingly, it is ORDERED:

1. The clerk is directed to send plaintiff a section 1983 complaint form and an application to proceed *in forma pauperis*.
2. Plaintiff shall file an amended complaint using the court form.
3. Plaintiff shall either pay the \$350.00 filing fee or file an application to proceed *in forma pauperis* as instructed herein.
4. Plaintiff shall do the above within thirty (30) days from the date of the docketing of this order. Failure to do so will result in a recommendation that this case be dismissed for failure to prosecute and to comply with an order of the court.

DONE AND ORDERED this 20th day of February, 2009.

/s/ Miles Davis

**MILES DAVIS**  
**UNITED STATES MAGISTRATE JUDGE**