

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DARRIN W. SHATNER,

Plaintiff,

v.

MIKE ATCHISON, et al.,

Defendants.

Case No. 13-cv- 00599-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff Darrin W. Shatner's Objection to Magistrate Judge's Order Denying Leave to Amend Complaint (Doc. 71) which this Court construes as an Appeal of Magistrate Judge's Order pursuant to Local Rule 73.1.

A district court reviewing a magistrate judge's decision on nondispositive issues should modify or set aside that decision if it is clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). Accordingly, the Court will affirm Magistrate Judge Frazier's decision unless his factual findings are clearly erroneous or his legal conclusions are contrary to law. *Id.*

Plaintiff filed a Motion to Amend Complaint (Doc. 33) on September 23, 2013 and another Motion to Amend Complaint (Doc. 37) on October 4, 2013. Plaintiff then filed a Motion to Supplement Amended Complaint (Doc. 44) on October 15, 2013. The above motions were granted on December 23, 2013 (Doc. 56) and Plaintiff was granted leave to file an amended complaint on or before January 23, 2014. On January 28, 2014, Plaintiff again motioned to supplement amended complaint (Doc. 57) and on January 30, 2014, was granted an additional 30 days in which to file an amended complaint (Doc. 58).

Although Plaintiff states that he filed an amended complaint in February of 2014 – within

the time allotted – the Court has no record of an amended complaint. Eight months later, on October 7, 2014, Plaintiff filed another Motion to Amend Complaint (Doc. 62) and Defendants filed a Response (Doc. 63). The Magistrate Judge denied (Doc. 65) the Plaintiff's Motion on November 3, 2014. Plaintiff once again filed a Motion for Leave (Doc. 67) to File Second Amended Complaint on November 19, 2014 which the Court denied (Doc. 71) on January 8, 2015.

The Magistrate Judge denied the Motion for Leave (Doc. 67) to File Second Amended Complaint based upon the Plaintiff's failure to comply with the Court order for an extended period of time and such denial was not clearly erroneous and his legal conclusions were not contrary to law.

As such, Plaintiff Darrin W. Shatner's Objection to Magistrate Judge's Order Denying Leave to Amend Complaint (Doc. 71) which this Court construes as an Appeal of Magistrate Judge's Order pursuant to Local Rule 73.1 is **DENIED**.

IT IS SO ORDERED.

DATED: 2/2/2015

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE