

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**LARRY J. MCKENDALL,  
Plaintiff**

**CIVIL ACTION**

**VERSUS**

**NO. 15-2631**

**U.S. ARMY CORPS OF ENGINEERS,  
NEW ORLEANS DISTRICT,  
Defendant**

**SECTION: "E"(2)**

**ORDER AND REASONS**

Before the Court are two motions to dismiss filed by the Defendant, the United States Army Corps of Engineers, New Orleans District.<sup>1</sup> For the reasons that follow, the motions are **DENIED WITHOUT PREJUDICE**.

On July 16, 2015, Plaintiff Larry McKendall filed a Complaint against the United States Army Corps of Engineers, New Orleans District (the "Defendant"). On October 21, 2015, the Defendant filed a motion to dismiss the Complaint under Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.<sup>2</sup> Plaintiff did not file a response to the motion but, instead, filed a motion to amend his Complaint,<sup>3</sup> which the Magistrate Judge granted on December 3, 2015.<sup>4</sup> The Defendant then filed a second motion to dismiss, based on the Amended Complaint, on December 22, 2015.<sup>5</sup>

After a review of Plaintiff's Amended Complaint, it is unclear whether Plaintiff is still making the claims asserted in his Original Complaint and is simply adding new, additional claims in his Amended Complaint, or whether Plaintiff is just making the claims as stated in his Amended Complaint. Furthermore, all of Plaintiff's claims, in both

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<sup>1</sup> R. Docs. 7, 13.

<sup>2</sup> R. Doc. 7.

<sup>3</sup> R. Doc. 10.

<sup>4</sup> R. Doc. 12.

<sup>5</sup> R. Doc. 13.

his Original Complaint and his Amended Complaint, are vague and ambiguous. Rule 8(a)(2) of the Federal Rules of Civil Procedure provides: “A pleading that states a claim for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief.” Neither Plaintiff’s Original Complaint nor his Amended Complaint satisfy the requirements of Rule 8(a)(2).

Accordingly;

Plaintiff is hereby granted leave to file a Second-Amended Complaint. **IT IS ORDERED** that Plaintiff file his Second-Amended Complaint no later than **Monday, March 21, 2016, at 5:00 p.m.**

Plaintiff’s Second-Amended Complaint must include a clear and concise listing of all claims which Plaintiff is making from his Original Complaint and Amended Complaint against the Defendant, the United States Corps of Engineers, New Orleans District. Extraneous facts and comments, including parables and stories, must be excluded. Furthermore, references to complaints against other entities not made defendants must be excluded. Plaintiff will not be given an additional opportunity to amend his Complaint, absent good cause shown. Failure to clearly and concisely delineate all claims against the United States Corps of Engineers, New Orleans District, as set forth above, will result in the dismissal of Plaintiff’s claims.

**IT IS FURTHER ORDERED** that the Defendant’s motions to dismiss<sup>6</sup> Plaintiff’s Original and Amended Complaints are hereby **DENIED WITHOUT PREJUDICE**. The Defendant may file a motion to dismiss based on Plaintiff’s Second-Amended Complaint no later than **Tuesday, April 5, 2016, at 5:00 p.m.**

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<sup>6</sup> R. Docs. 7, 13.

**New Orleans, Louisiana, this 7th day of March, 2016.**

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*Susie Morgan*  
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**SUSIE MORGAN**  
**UNITED STATES DISTRICT JUDGE**