

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

LEE LUCAS (#338382)

VERSUS

CIVIL ACTION

N. BURL CAIN, ET AL

NUMBER 12-791-JWD-SCR

ORDER STRIKING AMENDED COMPLAINT
and
ORDER STRIKING MOTION FOR DECLARATORY JUDGMENT
and
ORDER FOR SERVICE

On April 13, 2015, the plaintiff filed an Amended Complaint without leave of court do so. Record document number 63. Plaintiff previously filed the same Amended Complaint, with leave of court, on February 6, 2015.¹ The difference between the two is that attached to the Amended Complaint filed on February 6, 2015 is a one page letter/note to Judy Lofton dated July 30, 2014, a July 24, 2014, Inmate Funds Withdrawal Request form, and a one page August 15, 2014 letter/note to the clerk of this court.² These three documents are not attached to the April 13 Amended Complaint. There is no substantive difference between the two Amended Complaints. All of the remaining defendants have been served with

¹ Record document number 34, Motion for Leave to File Amended Complaint; record document number 42, Ruling on Motion for Leave to File Amended Complaint; record document number 43, Amended Complaint.

² Record document numbers 43-2.

the February 6 Amended Complaint.³ There is no apparent reason to re-file the February 6 Amended Complaint.

Plaintiff's Motion for Declaratory Judgment, record document number 64, is substantively the same as the Plaintiff's Motion for Declaratory Judgment filed on August 18, 2014, record document number 35. That motion was treated as another motion for leave to amend and was granted.⁴ There is no apparent reason to file the Plaintiff's Motion for Declaratory Judgment again.

The August 18 Plaintiff's Motion for Declaratory Judgment was filed before the other defendants filed their Answer on January 23, 2015, which was before the court granted the motion on February 6, 2015. Defendant Achord was served with the August 18 motion.⁵ But there is no indication that any of the other defendants were served with the August 18 Plaintiff's Motion for Declaratory Judgment.

Therefore;

IT IS ORDERED that the plaintiff's Amended Complaint and the Plaintiff's Motion for Declaratory Judgment (record document numbers 63 and 64), both filed on April 13, 2015, are stricken.

IT IS FURTHER ORDERED that the defendants currently

³ Defendant Bobby Achord was served on March 18, 2015. Record document number 57. The other defendants were served with the February 6 Amended Complaint via CM/ECF, the court's electronic filing system, on the date the Amended Complaint was filed. It does not appear that any defendant has filed an answer to the Amended Complaint.

⁴ Record document number 42, Ruling on Motion for Declaratory Judgment.

⁵ Record document number 44, Order for Service; record document number 57, Process Receipt and Return.

represented by counsel be served with the Plaintiff's Motion for Declaratory Judgment (record document number 35) by having the clerk of court send a notice of electronic filing (NEF), with a link to the motion, to the defendants' counsel of record.

Baton Rouge, Louisiana, April 14, 2015.

A handwritten signature in blue ink that reads "Stephen C. Riedlinger". The signature is written in a cursive style and is positioned above a solid horizontal line.

STEPHEN C. RIEDLINGER
UNITED STATES MAGISTRATE JUDGE