

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ALLEN DAVID DANIEL,

Petitioner,

Case Number: 2:08-CV-13835

v.

HON. GEORGE CARAM STEEH

BLAINE LAFLER, ET AL.,

Respondent.

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ORDER OF SUMMARY DISMISSAL

Plaintiff Allen David Daniel is in state custody at the Baraga Maximum Correctional Facility in Baraga, Michigan. He has filed a civil rights complaint pursuant to 42 U.S.C. § 1983. The Court finds that the complaint is duplicative of another complaint pending in this District and, therefore, dismisses the complaint.

On September 5, 2008, Plaintiff filed a civil rights complaint in this Court, claiming that he has been the victim of retaliation by various state officials and Michigan Department of Corrections' employees. Plaintiff claims that the retaliatory acts include verbal threats, deprivation of food, being served food contaminated by chemicals, being doused in chemicals thrown on him by other inmates at the urging of corrections officers, deprivation of his legal documents, and issuance false misconduct tickets. That complaint was assigned to the Honorable Robert H. Cleland. *See Daniel v. Lafler*, No. 2:08-cv-13817. Several days after filing that complaint, Plaintiff filed the complaint assigned to the undersigned district judge. The claims contained in this complaint are all encompassed within the complaint filed in case number 2:08-cv-13817. In addition, all of the defendants named in this later-filed complaint are

named defendants in case number 2:08-cv-13817.

“[A] a suit is duplicative if the claims, parties, and available relief do not significantly differ between the two actions." *Serlin v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir.1993) (internal quotation marks and citations omitted). This complaint names the same defendants and challenges the same action as the complaint currently pending before the Honorable Robert H. Cleland. Therefore, the instant complaint is duplicative and shall be dismissed. To the extent that Plaintiff wishes to raise additional claims not already before the court in the earlier-filed complaint, Plaintiff may seek leave to amend that complaint in accordance with the requirements of Federal Rule of Civil Procedure 15.

Accordingly, IT IS ORDERED that the complaint [dkt. #1] is DISMISSED WITHOUT PREJUDICE.

Dated: December 12, 2008

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on December 12, 2008, by electronic and/or ordinary mail.

S/Marcia Beauchemin
Deputy Clerk