

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

NORMAN DORISE,

Plaintiff,

v.

Case No. 09-10042

HON. MARIANNE O. BATTANI

ELLA BULLEA CUMMINGS, et al.,

Defendants.

**ORDER AFFIRMING JANUARY 29, 2010 ORDER DENYING
MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT**

Before the Court are Plaintiff Norman Dorise's Objections to the Magistrate Judge's order denying his request for leave to file an amended complaint (Doc. No. 55). The Court has reviewed the pleadings and finds oral argument will not aid in the resolution of this motion. See E. D. Mich. LR 7.1(e)(2). For the reasons that follow, the Court **AFFIRMS** the Magistrate Judge's order.

According to Plaintiff, he complied with the Magistrate Judge's earlier order to file his amended complaint no later than February 2, 2010. He filed his complaint on January 25, 2010. The Court agrees that the amended complaint was filed in compliance with the order. The confusion arises because when Plaintiff submitted his amended complaint, he also included a second motion for leave to file an amended complaint. That motion merely duplicates the motion previously granted. See Doc. Nos. 46, 52. Consequently, the Magistrate Judge denied the motion as moot.

Pursuant to 28 U.S.C. § 636(b)(1)(A) the Court may "reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate's order is clearly erroneous or contrary to law."

Despite Plaintiff's Objection, it is clear that Plaintiff's "second" request to amend his complaint is identical to his first motion seeking leave to amend his complaint.

Therefore, his second motion is moot.

In sum, the Amended Complaint, filed January 25, 2010, is the operative pleading.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATED: March 19, 2010

CERTIFICATE OF SERVICE

Copies of this Order were served upon Plaintiff and counsel of record on this date by ordinary mail and/or electronic filing.

s/Bernadette M. Thebolt
Case Manager