

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RONALD JORDAN,)	
)	
Plaintiff(s),)	
)	
vs.)	Case No. 4:12CV2070 JCH
)	
BRIAN D. HALL, et al.,)	
)	
Defendant(s).)	

MEMORANDUM AND ORDER

This matter is before the Court upon Defendants Brian Hall, Joey Arcand, and Paul Johnson’s (collectively “Defendants”) Motion to Dismiss, filed January 31, 2013. (ECF No. 17). Upon review the Court finds that in preparing their motion, Defendants made little effort to discern and attack the claims actually raised in Plaintiff’s Complaint. For example, Defendants persist in defending against claims against them in their official capacities, despite the fact that Plaintiff clearly indicated he intended to pursue only individual capacity claims. (See ECF No. 1-1). More disturbingly, based on language in Plaintiff’s Complaint, Defendants insist Plaintiff’s claims consist solely of “cruel and unusual punishment and I believe due process.” (See ECF No. 18, P. 1, quoting ECF No. 1, P. 2). In so doing, Defendants completely ignore Plaintiff’s claims of retaliation, which permeate his Complaint. Even the most cursory reading of Plaintiff’s Complaint, however, reveals that his early reference to cruel and unusual punishment and due process relates to a suit he filed with this Court in the early 1990s. (See ECF No. 1, P. 2).¹

¹ The Court recognizes that Plaintiff checked a box indicating he had brought another civil action based on the same facts involved in this action. (See ECF No. 1, P. 1). The description of the suit reveals this to be an obvious mistake, as the earlier suit preceded the facts at issue here by approximately twenty years. (See *Id.*, P. 2).

Under these circumstances, the Court declines to address the narrow arguments raised in Defendants' Motion to Dismiss at this time. Defendants' Motion to Dismiss will therefore be denied without prejudice.

Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (ECF No. 17) is **DENIED** without prejudice.

Dated this 18th day of April, 2013.

/s/Jean C. Hamilton
UNITED STATES DISTRICT JUDGE