

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

LUCIUS ELWOOD MCLEAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:09CV953
	)	
L.A. OLIGMUELLER, JR., et al.,	)	
	)	
Defendants.	)	

**ORDER**

On December 15, 2009, Plaintiff filed a pro se Complaint. (Doc. 1.) On December 18, 2009, the United States Magistrate Judge entered a Recommendation of dismissal without prejudice and the Clerk mailed that Recommendation to Plaintiff. (Docs. 2 and 3.) On February 1, 2010, the Clerk docketed Plaintiff's "Motion for Leave to Appeal" which included as an attachment a "Notice of Appeal." (Doc. 4.) On February 2 and 8, 2010, the Clerk docketed two separate filings from Plaintiff, each styled as a "Supplemental Pleading." (Docs. 5 and 6.) On February 9, 2010, the Clerk docketed a notice from the United States Court of Appeals for the Fourth Circuit reflecting the opening of a case in that court arising from Plaintiff's effort to appeal. (Doc. 7.) On March 24, 2010, the Clerk docketed the opinion and notice from the Fourth Circuit documenting that Plaintiff's appeal was dismissed for want of jurisdiction. (Docs. 8 and 9.)

To the extent that any of Plaintiff's filings could be construed as timely objections to the Recommendation dated December 18, 2009, the court has conducted a *de novo* review and has

determined that none of the filings changes the substance of the Recommendation, which the court affirms and adopts.

IT IS THEREFORE ORDERED that this action is dismissed sua sponte without prejudice to Plaintiff filing a new complaint, on the proper section 1983 forms, which corrects the defects cited in the Recommendation.

/s/ Thomas D. Schroeder  
United States District Judge

September 13, 2010