

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

CALVIN L. HENNIGAN,)
)
 Plaintiff,)
)
 v.)
)
 ARAMARK, et al.,)
)
 Defendants.)

**MEMORANDUM OPINION
AND ORDER**

1:10CV193

Plaintiff originally filed this case as an action under 42 U.S.C. § 1983. Following initial screening, the undersigned recommended that the case be dismissed without prejudice to it being refiled after Plaintiff corrected certain deficiencies (docket no. 4). That Recommendation was eventually adopted by the District Judge handling the matter and Judgment was entered dismissing the case (docket nos. 7, 8). The case was then closed. Three months later, Defendants B.J. Barnes, Officer Ramsey, and Lt. Watkins filed a Motion for Relief From Fraudulent Filings (docket no. 9). It alleges that Plaintiff filed certain fraudulent documents in this case and in another civil rights action that he is also pursuing, 1:10CV485. Defendant’s motion prompted Plaintiff to file a motion seeking appointment of counsel (docket no. 11).

It is not clear why Defendants filed their motion in a case that had been dismissed and closed. This case would not have posed any concern to them and, to the extent that Defendants might have fears about Plaintiff making future

fraudulent filings, that issue can be fully addressed in his other pending civil action. The filing may have been inadvertent given that Defendants' attorneys were filing several similar motions in a group of related actions. Regardless, the fact remains that this case was closed and further motions were not proper. The parties' pending motions, filed after the closing of the case, will be stricken and will not be considered further.

For the foregoing reasons,

IT IS ORDERED that Defendants' Motion for Relief From Fraudulent Filings (docket no. 9) and Plaintiff's motion have counsel appointed (docket no. 11) are stricken and that this case will remain closed.



Wallace W. Dixon
United States Magistrate Judge

Durham, N.C.
February 3, 2011