

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:09CV165-3-MU**

TONEY RECOE KING,

Plaintiff,

Vs.

ROBERT C. LEWIS; ROBERT COOPER  
PATRICK CHILDRESS; NORTH  
CAROLINA DEPARTMENT OF  
CORRECTION

Defendants.

**ORDER**

**THIS MATTER** comes before the Court upon the Plaintiff’s Complaint filed pursuant to 42 U.S.C. § 1983, filed April 28, 2009 (Document No. 1.) Defendants should note Plaintiff filed an appeal from the May 12, 2009 Order of this Court dismissing his Complaint on initial review (Document No. 5.) On December 31, 2009, the Fourth Circuit Court of Appeals vacated this Court’s Order and remanded for further proceedings. In accordance with the Fourth Circuit’s Order, the undersigned finds that the Defendants should file an Answer detailing Plaintiff’s allegations and responding to each.

**THEREFORE, IT IS HEREBY ORDERED** that:

1. Defendants shall file an Answer to Plaintiff’s Complaint in accordance with the Federal Rules of Civil Procedure; and
2. The Clerk shall issue summons and deliver it forthwith to the U.S. Marshall who will make service of process without additional cost.

**SO ORDERED.**

Signed: January 4, 2010

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

