

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE: 1:10cv69-RJC

HENRY H. BETTIS, III,)
)
 Plaintiff,)
)
 v.)
)
 MADISON COUNTY SHERIFF’S)
 DEP’T, et al.,,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER comes before the Court upon its own motion.

Plaintiff has filed a complaint pursuant to 42 U.S.C. § 1983. (Doc. No. 1). He filed an amendment to his complaint on March 30, 2010 (Doc. No. 6), which was granted as to the retaliatory transfer claim against Defendant Harwood but otherwise denied. (Doc. No. 18). On April 22, 2010, Defendants filed a document titled “Answer and Motion,” in which Defendants both answered and moved to dismiss the complaint. (Doc. No. 16). The Local Rules for the Western District of North Carolina, however, require that initial responsive pleadings and motions be filed separately. W.D.N.C. Civ. R. 7.1(C)(1) (eff. Dec. 1, 2009). Consequently, Defendants’ “Answer and Motion” was docketed solely as an Answer to Plaintiff’s § 1983 complaint. (Doc. No. 16; Doc. entry dated 05/03/2010).

The local rules also preserve motions to dismiss made in initial responsive pleadings. W.D.N.C. Civ. R. 7.1(C)(1). “A party wishing to have decided any preserved motion shall file a separate motion and supporting brief.” Id. Therefore, Defendants will be given time to file a separate motion to dismiss and supporting brief in this case.

IT IS, THEREFORE, ORDERED that should they wish to have this Court decide the motion that was contained in their Answer, Defendants shall file the motion and any supporting brief separately within thirty (30) days of the filing of this Order.

Signed: January 10, 2011

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

