

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:12cv328**

**CARL E. MCADOO, EXECUTOR FOR)
THE ESTATE OF CHARLES RAFORD)
MCADOO, SENIOR, DECEASED,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA, et al.,)
)
Defendants.)
_____)**

ORDER

Pending before the Court is Plaintiff’s Amended Complaint [# 72].

Previously, the Court denied without prejudice two Motions to Dismiss and directed Plaintiff to obtain counsel within thirty (30) days of the entry of the Court’s Order. (Order, Feb. 3, 2014.) The Court held that Plaintiff could not proceed in the action *pro so* as the Executor of the Estate of Charles McAdoo, Sr. (Id.) Plaintiff, however, failed to obtain counsel as directed by this Court.

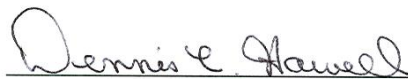
Instead, Plaintiff moved the Court to reconsider its Order and allow him to proceed *pro se* in this case. Upon a review of Plaintiff’s Motion for Reconsideration, the record, the Court’s prior Order, and the relevant legal authority, the Court found no grounds for reconsidering its prior Order and denied Plaintiff’s motion. (Order, Mar. 12, 2014.) Subsequently, the District Court dismissed this action without

prejudice based on Plaintiff's failure to obtain counsel. (Order, Mar. 17, 2014.)
The Clerk then entered Judgment in the case and the case was closed. (Clerk's
Judgment, Mar. 17, 2014.)

Plaintiff then filed a Notice of Appeal with the United States Court of
Appeals for the Fourth Circuit. The Fourth Circuit dismissed the appeal for lack of
jurisdiction. McAdoo v. U.S., No. 14-1264, 2014 WL 3703667 (4th Cir. Jul. 29,
2014). Plaintiff then filed an Amended Complaint in this case on August 13, 2014.
Defendants moved to strike the Amended Complaint and for an extension of time
to respond to the Amended Complaint.

Upon a review of the record, the Court **STRIKES** the Amended Complaint
[# 72]. The District Court previously dismissed this action. The case is closed. To
the extent that Plaintiff seeks to revive the claims that the Court previously
dismissed without prejudice, it must do so by filing a new action. This case is
closed. The Court **DENIES as moot** the Motion to Strike [# 73] and Motion for
Extension of Time [# 74].

Signed: August 28, 2014



Dennis L. Howell
United States Magistrate Judge

