

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Dale Joseph Burke,)	
)	
Plaintiff,)	ORDER ADOPTING
)	REPORT AND RECOMMENDATION
vs.)	
)	
North Dakota Department of Corrections and Rehabilitation, et al.)	Case No. 1:12-cv-131
)	
Defendants,)	

Before the Court is Magistrate Judge Charles S. Miller, Jr.’s “Report and Recommendation” which was filed on February 28, 2013. See Docket No. 20. Judge Miller conducted an initial screening of the Plaintiff, Dale Burke’s, complaint pursuant to 28 U.S.C. § 1915A. Judge Miller also reviewed several pending non-dispositive motions filed by Burke.

Judge Miller found the complaint lacked sufficient specificity, and includes a variety of unrelated matters which misjoins the defendants in violation of Rule 20 of the Federal Rules of Civil Procedure. See Docket No. 20, pp. 4-8. Judge Miller makes the following recommendations:

1. Burke be directed to file an amended complaint within thirty days that includes only those persons as defendants, along with associated claims, that complies with the limitations upon joinder of defendants set forth [in] Fed. R. Civ. P. 20 and that defendants previously named, but not named in the amended complaint, be dismissed without prejudice.
2. The motion to amend at Doc. No. 12, the emergency motion at Doc. No. 8, and the motion for temporary restraining order at Doc. No. 13 all be denied.
3. The motion for Marshal service of process at Doc. No. 19 be held in abeyance.

4. The court advise Burke that the failure to file an amended complaint complying with Rule 20's requirements may result in a dismissal of his entire action without prejudice for failure to comply with the court's order.

See Docket No. 20, p. 19. Burke filed an objection to the Report and Recommendation on March 11, 2013. See Docket No. 21.

The Court has carefully reviewed the entire record and the relevant law, and finds the Report and Recommendation to be persuasive. The Court **ADOPTS** the Report and Recommendation (Docket No. 20) in its entirety, and **ORDERS** as follows:

1. Burke is **DIRECTED** to file an amended complaint within thirty (30) days that only includes those persons and claims that comply with Rule 20 of the Federal Rules of Civil Procedure. Any defendant not named in the amended complaint shall be dismissed without prejudice.
2. The motion to amend (Docket No. 12), the emergency motion (Docket No. 8), and the motion for temporary restraining order (Doc. No. 13) are **DENIED**.
3. The motion for Marshal service of process (Docket No. 19) is **HELD IN ABEYANCE**.
4. The Court advises Burke that failure to file an amended complaint in compliance with Fed. R. Civ. P. 20 may result in a dismissal of the entire action without prejudice for failure to comply with the Court's order.

IT IS SO ORDERED.

Dated this 20th day of March, 2013.

/s/ Daniel L. Hovland
Daniel L. Hovland, District Judge
United States District Court