

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

Mitchell David Holbach, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Nancy Murphy, et. al., )  
 )  
 Defendant. )

**ORDER**

Case No. 4:08-cv-074

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Plaintiff, Mitchell David Holbach (Holbach), initiated the above-entitled action on August 7, 2008. He filed a *pro se* complaint in which he claimed that the defendants, ninety-five in all, had conspired to violate his civil rights on at least thirteen different occasions. Pursuant to the undersigned’s Report and Recommendation of September 24, 2008, the court dismissed the case on October 20, 2008. Judgment was entered accordingly.

On November 14, 2008, Holbach filed a Notice of Appeal. On November 24, 2008, which was after this court lost jurisdiction over the case with the filing of the appeal, Holbach filed with this court a “motion to determine constitutionality of N.D.C.C. 12.1-17-07.1, re ‘Stalking.’” On August 13, 2009, the Eighth Circuit summarily affirmed this court’s dismissal of the action. The purpose for the current order is to administratively term Holbach’s outstanding motion ““motion to determine constitutionality of N.D.C.C. 12.1-17-07.1, re ‘Stalking,’” which is treated as motion to his amend complaint and **DENIED** as being **MOOT** given the dismissal of the action.

**IT IS SO ORDERED.**

Dated this 15th day of September, 2009.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr.  
United States Magistrate Judge