

The Declaratory Judgment Act states in pertinent part:

In a case of actual controversy within its jurisdiction . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

See 28 U.S.C. § 2201(a) (inapplicable exceptions omitted). The statute uses permissive, not mandatory, language. *American Federation of State, County, and Mun. Employees, Local 59 v. El Paso City/County Health District*, 198 F.3d 240, 1999 WL 824479, at *3 (5th Cir. 1999). “The district court has broad discretion to grant (or decline to grant) declaratory judgment.” *Winton v. Seven Falls Co.*, 41 F.3d 934, 935 (5th Cir. 1994) (citing *Torch, Inc., v. LeBlanc*, 947 F.2d 193, 194 (5th Cir. 1991)), *aff’d*, 515 U.S. 277, 115 S. Ct. 2137, 132 L. Ed. 2d 214 (1995). Decisions of the district court will be reviewed under the abuse of discretion standard. *Id.* (citing *Rowan Cos. v. Griffin*, 876 F.2d 26, 29 (5th Cir. 1989)).

Here, Plaintiff does not state what “rights and other legal relations” he seeks with regard to the Defendants. Furthermore, he has not stated any basis in either fact or law to support any form of declaratory judgment. In effect, he simply asks the Court to grant him undefined declaratory judgment against “all Defendants.” Motion at 2. In so doing, he appears to ignore that all Defendants with the exception of one, Sergeant Young, have been dismissed from this action and that his claim is being allowed to go forward against that remaining Defendant on the issue of excessive use of force and retaliation only. There is no claim for “assault and battery” or “municipality liability.” None of his allegations in his motion provide any basis for making a finding against Sergeant Young on these remaining claims. He has therefore failed to state a claim or which declaratory judgment relief may be granted and his motion will therefore be denied. See *Price v.*

Interstate Mgmt. Co., 2012 WL 283020, at *1 (5th Cir. Feb. 1, 2012) (per curiam). Plaintiff's case will be set for trial in due course unless a party successfully moves for summary judgment or another valid basis for a final judgment.

It is accordingly

ORDERED that Plaintiff's Motion for Declaratory Judgment (docket entry #40) is hereby **DENIED**.

So **ORDERED** and **SIGNED** this **22** day of **February, 2012**.



JUDITH K. GUTHRIE
UNITED STATES MAGISTRATE JUDGE