

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

EDWARD ARLEN JOHNSON,

Plaintiff,

vs.

ARLEN JOHNSON, et al.,

Defendants.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANTS'
MOTION TO DISMISS AS MOOT

Case No. 2:05-CV-749 TS

This matter comes before the Court on a Motion to Dismiss filed by Defendants Anjewierden, Ashman, Burbidge, and Gardner, seeking dismissal of Plaintiff's Amended Complaint. Plaintiff does not oppose dismissal against these Defendants, but asks that any dismissal be without prejudice. For the reasons discussed below, the Court finds that the Motion is moot and will deny it as such.

Throughout the course of this litigation, Plaintiff has filed a number of documents which the Court has liberally construed as complaints.¹ In response to Plaintiff's January 14, 2008 Complaint, Defendants Anjewierden, Ashman, Burbidge, and Gardner, each filed answers.²

¹See generally Docket Nos. 3, 50, 53, 55, and 124.

²See Docket Nos. 134, 135, 136, and 137.

Plaintiff was recently appointed counsel and, through counsel, filed an Amended Complaint.³ That Amended Complaint removes the allegations against Defendants Anjewierden, Ashman, Burbidge, and Gardner. Based on the Amended Complaint, Defendants Anjewierden, Ashman, Burbidge, and Gardner seek dismissal of any claims against them with prejudice. Plaintiff does not oppose the dismissal of these individuals, but urges that any dismissal should be without prejudice.

“An amended complaint supersedes the original complaint and renders the original complaint of no legal effect.”⁴ The Amended Complaint contains no claims against Defendants Anjewierden, Ashman, Burbidge, and Gardner. These individuals are not named in the caption or the body of the Amended Complaint. As there are no claims asserted against them, there are no claims to dismiss. As a result, Defendants’ Motion is moot.

It is therefore

ORDERED that Defendants’ Motion to Dismiss (Docket No. 161) is DENIED AS MOOT.

DATED September 29, 2008.

BY THE COURT:



TED STEWART
United States District Judge

³Docket No. 160.

⁴*Franklin v. Kan. Dep’t of Corr.*, 160 Fed.Appx. 730, 734 (10th Cir. 2005).