

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

THOMAS G. DESPART,

Plaintiff,

v.

Case No: 2:17-cv-354-FtM-38MRM

RICK SCOTT, MIKE CAROL, JERRY
BOYAL, DONALD SAWYER, FNU
LAMB, B. L. MASONY, KERRY
FITZPATRICK and DEBRA
JACKSON,

Defendants.

OPINION AND ORDER¹

This matter comes before the Court on Plaintiff's Amended Complaint ([Doc. 15](#)) filed on September 25, 2017. The Court entered an Opinion and Order dismissing Plaintiff's Complaint without prejudice on September 21, 2017 ([Doc. 12](#)). Judgment was entered and this case was closed the same day ([Doc. 14](#)). Plaintiff did not timely appeal nor move for reconsideration of the Court's Opinion and Order. Consequently, the Court will direct the Clerk of Court to strike the Amended Complaint. Nonetheless, because the Court dismissed Plaintiff's Complaint without prejudice, the Court will direct the Clerk of Court to open a new case, place a copy of the Amended Complaint in the new action and

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docket the Amended Complaint as the "Complaint" in the newly opened action. If Plaintiff wishes to prosecute the Complaint in the new action, he is required to either pay the \$400 filing fee or file an Affidavit of Indigence for Florida Civil Commitment (FCC) Residents as ordered below.

Accordingly, it is now

ORDERED:

1. Plaintiff's Amended Complaint ([Doc. 15](#)) is **STRICKEN**.
2. The Clerk of Court shall open a new civil rights case and place a copy of this Order and Plaintiff's Amended Complaint ([Doc. 15](#)) in the newly opened case. The Clerk shall docket and label the Amended Complaint as Plaintiff's "Complaint" in the new case.
3. The Clerk shall forward an Affidavit of Indigence for Florida Civil Commitment ("FCC") Residents to Plaintiff bearing the new case number for Plaintiff's use, if applicable, for the new action.
4. If Plaintiff wishes to prosecute the Complaint in the new action, he shall either pay the \$400 filing fee or file the Affidavit of Indigence for Florida Civil Commitment ("FCCC") Residents with a copy of his resident account statement **on or before February 23, 2018.**

DONE and **ORDERED** in Fort Myers, Florida this 18th day of January, 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1
Copies: All Parties of Record