

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

TONY L. HILL,

Plaintiff,

v.

Case No. 8:23-cv-26-WFJ-UAM

ARAMARK CORRECTIONAL
SERVICES, LLC, and H. PIERRE,

Defendants.

_____ /

ORDER

This matter comes before the Court *sua sponte*. A general summary of the filings to date is set forth here.

On October 24, 2023, this Court dismissed the initial complaint without prejudice and gave Plaintiff sixty days to exhaust administrative remedies and replead his complaint as to Defendant Ms. H. Pierre, should any viable claim exist. Dkt. 58. Plaintiff filed an amended complaint on November 22. Dkt. 59.

Also on November 22, Plaintiff filed an “Amended Motion to Sue” for damages. Dkt. 60. On November 28, this Court denied Plaintiff’s amended motion without prejudice to permit Plaintiff to file a Second Amended Complaint to allege all his claims in one pleading. Dkt. 61.

On December 11, Defendants H. Pierre and Aramark Correctional Services, LLC filed a motion to dismiss the (first) amended complaint. Dkt. 62. On December 21, the Court entered two orders. Dkts. 63, 64. The first order

dismissed the Florida Department of Corrections as a party. Dkt. 63. The second order notified Plaintiff that he must respond within thirty (30) days to the pending motion to dismiss or the motion would be taken under advisement as unopposed and could result in the dismissal and final adjudication of this case without further notice. Dkt. 64.

Unbeknownst to the Court, Plaintiff's Second Amended Complaint crossed in the mail with the two orders entered on December 21. The Second Amended Complaint reached the docket on December 22—one day later. Dkt. 65.

Accordingly, Plaintiff's Second Amended Motion "to Sue" (Dkt. 66) is denied, Plaintiff having filed his Second Amended Complaint in accordance with the November 28 order. Defendants' motion to dismiss the first amended complaint (Dkt. 62) is denied as moot and without prejudice to filing a motion directed to the Second Amended Complaint. The parties should note that there is no longer any pending motion to which Plaintiff must respond. Should Defendants Aramark Correctional Services, LLC and H. Pierre file a motion to dismiss the Second Amended Complaint, Plaintiff will have an opportunity to file his opposition to any such motion.

DONE AND ORDERED at Tampa, Florida, on January 2, 2024.



WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

COPIES FURNISHED TO: Plaintiff, *pro se* and Counsel of record