

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

STEPHEN LYNCH MURRAY,

Plaintiff,

v.

Case No: 6:23-cv-1351-JSS-DCI

GOVERNOR, STATE OF FLORIDA,
and CHIEF JUSTICE, SUPREME
COURT OF FLORIDA,

Defendants.

_____ /

ORDER

Plaintiff, proceeding pro se, initiated this action in July 2023 by suing Defendants and alleging numerous constitutional violations. (*See* Dkt. 1.) On February 22, 2024, the court dismissed the complaint without prejudice as a shotgun pleading and allowed Plaintiff to file an amended complaint by March 11, 2024. (*See* Dkt. 26.) Four days later, on February 26, 2024, Plaintiff appealed the dismissal to the Eleventh Circuit. (*See* Dkt. 28.) Given the appeal, the court stayed and administratively closed this case. (*See* Dkt. 30.)

On March 6, 2024, while his appeal was pending, Plaintiff filed an amended complaint. (*See* Dkt. 31.) Plaintiff has also filed a second amended complaint. (*See* Dkt. 38.) On October 15, 2024, the Eleventh Circuit affirmed the dismissal of the initial complaint. (*See* Dkts. 36 & 37 (opinion and mandate).) *See Murray v. Governor*, No. 24-10583, 2024 U.S. App. LEXIS 25816 (11th Cir. Oct. 15, 2024). In determining

that it had appellate jurisdiction because the order dismissing the initial complaint was a final order under 28 U.S.C. § 1291, the Eleventh Circuit explained that Plaintiff “cho[se] to appeal the dismissal of his complaint before the amended complaint [wa]s due.” *Murray*, 2024 U.S. App. LEXIS 25816, at *6 (citing *Garfield v. NDC Health Corp.*, 466 F.3d 1255, 1260 (11th Cir. 2006)). By choosing to appeal, Plaintiff “elected to stand on [his initial complaint] and waived [his] right to further amendment.” *Garfield*, 466 F.3d at 1260–61; accord *Schuurman v. Motor Vessel “Betty K V,”* 798 F.2d 442, 445 (11th Cir. 1986) (“Once the plaintiff chooses to appeal before the expiration of time allowed for amendment, . . . the plaintiff waives the right to later amend the complaint, even if the time to amend has not yet expired.”).

Accordingly:

1. The amended complaint (Dkt. 31) and second amended complaint (Dkt. 38) are **STRICKEN**.
2. This case is **DISMISSED**.
3. The Clerk is **DIRECTED** to terminate any pending motions and deadlines.
4. This case remains closed.

ORDERED in Orlando, Florida, on November 7, 2024.


JULIE S. SNEED
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Unrepresented Parties
Counsel of Record