

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

J.R.,

Plaintiff,

v.

4:11cv417-WS

MICHAEL HANSEN, in his  
Official Capacity as Director of  
the Agency for Persons with  
Disabilities,

Defendant.

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ORDER DENYING DEFENDANT'S MOTION TO DISMISS

Before the court is the defendant's motion to dismiss for failure to state a claim.

Doc. 10. The plaintiff has filed a response (doc. 12) in opposition to the motion.

Briefly, the plaintiff has alleged that, in 2004, his mental retardation resulted in his being involuntarily and indefinitely committed to the defendant's custody pursuant to Florida's law—Florida Statute § 393.11—governing the civil commitment of persons with developmental disabilities. Under section 393.11, a person's commitment continues until the court, which retains jurisdiction throughout the commitment, releases the individual from the order of commitment. The Plaintiff alleges that, since his commitment, the court has not once reviewed the commitment order for its continued appropriateness. The plaintiff maintains that his continued commitment, without periodic state-initiated review of its appropriateness, constitutes a violation of his due

process rights.

Because the court finds that the plaintiff's allegations are sufficient to survive the defendant's motion to dismiss, it is ORDERED:

The defendant's motion to dismiss (doc. 10) is DENIED.

DONE AND ORDERED this 19th day of December, 2011.

s/ William Stafford  
WILLIAM STAFFORD  
SENIOR UNITED STATES DISTRICT JUDGE