

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BRIAN MICHAEL WATERMAN,

Plaintiff,

vs.

Case No. 19-3093-SAC

JACOB CONARD, et al.,

Defendants.

O R D E R

On August 6, 2019, the court issued an order granting plaintiff in forma pauperis status, directing plaintiff to pay an initial partial filing fee, granting plaintiff's motion to amend on the condition that a complete amended complaint be filed by September 13, 2019, and directing plaintiff to show cause by September 20, 2019 why the court should not abstain and stay all significant or substantive action pending the completion of his state criminal court case.

On August 12, 2019, plaintiff pro se filed what was docketed as a motion to amend. Doc. No. 8. In this pleading plaintiff states that he is requesting "to totally redo my entire complaint"; that the court disregard his first complaint; and that he be allowed to "start from scratch."

The court shall treat Doc. No. 8 as a motion to dismiss pursuant to Fed.R.Civ.P. 41(a)(2). The court shall dismiss the

above-captioned case without prejudice. This will allow plaintiff to "start from scratch." Plaintiff is advised that for purposes of the Younger abstention doctrine, a pending state criminal action is not complete at least until all appellate proceedings are exhausted. See Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 14 n.13 (1987); Glaser v. Wilson, 480 Fed.Appx. 499, 501 n.1 (10th Cir. 2012); Mounkes v. Conklin, 922 F.Supp. 1501, 1511 (D.Kan. 1996).

IT IS SO ORDERED.

Dated this 13th day of August, 2019, at Topeka, Kansas.

s/Sam A. Crow _____
Sam A. Crow, U.S. District Senior Judge