

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

KYLE J. SUTTON,

Plaintiff,

v.

CASE NO. 20-3076-SAC

ANDREW SEAL, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is a civil rights action filed under 42 U.S.C. § 1983. Plaintiff's complaint contends the defendants are engaging in an unofficial custom of fraud on official affidavits in support of applications for warrants by using allegedly incorrect wording. He raises this claim, and has subsequently attempted to assert other claims, in connection with his pending prosecution in the District Court of Wyandotte County, Kansas.

On August 26, 2020, the Court entered an order to show cause (OSC) (ECF No. 5) directing Plaintiff to show cause by September 25, 2020, why the abstention doctrine prescribed by the U.S. Supreme Court in *Younger v. Harris* does not require the dismissal of his complaint. *See Younger v. Harris*, 401 U.S. 37, 45 (1971). The OSC stated that if Plaintiff failed within the time allotted to file a response, this action could be dismissed without further notice.

Plaintiff has filed three motions and an affidavit since the Court entered the OSC, but in none of his filings does he address *Younger* abstention, let alone show good cause why the doctrine is not applicable to his complaint. One of the motions (ECF No. 7) requests leave to file an

amended complaint, but the additional claims Plaintiff wants to make are also related to his pending state prosecution and would also require the Court's abstention.

Because (1) there is an ongoing state criminal, civil, or administrative proceeding, (2) the state court affords an adequate forum to hear the claims raised in the plaintiff's federal complaint, and (3) the state proceedings implicate important state interests, the Court is obligated to dismiss this action. *See Weitzel v. Div. of Occupational & Prof'l Licensing*, 240 F.3d 871, 875 (10th Cir. 2001).

IT IS THEREFORE ORDERED that this action is **dismissed** for the reasons stated herein.

IT IS FURTHER ORDERED that all pending motions are **denied**.

IT IS SO ORDERED.

DATED: This 23rd day of October, 2020, at Topeka, Kansas.

s/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge