

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

PETTIX MCMILLAN,

Plaintiff,

v.

CASE NO. 22-3278-JWL

BYRON ALEXANDER, ET AL.,

Defendants.

MEMORANDUM AND ORDER

Plaintiff Pettix McMillan, a state prisoner who is incarcerated at Lansing Correctional Facility (LCF) in Lansing, Kansas, filed this pro se civil action pursuant to 42 U.S.C. § 1983 alleging that his constitutional rights have been violated. On December 30, 2022, the Court ordered Plaintiff to file a complete and proper second amended complaint on or before February 2, 2023. (Doc. 10.) The matter comes now before the Court on Plaintiff's January 27, 2023 filing which, for the reasons explained below, is construed as a motion for extension of time.

The Court liberally construes pro se filings such as this one and holds it to "less stringent standards than formal pleadings drafted by lawyers." *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Liberally construing the current filing, Plaintiff moves for an extension of time in which to file his second amended complaint. He explains that due to a facility lockdown, he was unable to access the law library and complete his second amended complaint. The motion will be granted. Plaintiff will be granted until and including March 3, 2023 to file his second amended complaint.

Plaintiff also seeks additional information regarding the status of his case and a motion for extension of time he mailed to the Court on January 22, 2023. (Doc. 12.) The Court received the motion on January 26, 2023, and mailed it back to Plaintiff without filing it. Plaintiff is incarcerated

in a facility with mandatory electronic filing, so he must follow the instructions available at the facility and transmit his pleadings and filings electronically to the Court. Plaintiff may not mail documents to the Court to be filed in this or any other matter as long as he is incarcerated at LCF or another correctional facility with mandatory electronic filing.

Plaintiff also inquires about the effect of United States Magistrate Judge O'Hara no longer being assigned to this matter. Plaintiff is hereby advised that he is required to comply with all orders previously entered in this matter, including the order for a second amended complaint. The undersigned United States District Judge remains assigned to this matter and will review the second amended complaint when Plaintiff files it and issue any further orders necessary. Plaintiff is reminded that if he fails to timely file a second amended complaint on or before March 3, 2023, this matter may be dismissed without further prior notice to Plaintiff.

IT IS THEREFORE ORDERED that the motion for extension of time (Doc. 12) **is granted**. Plaintiff is granted to and including March 3, 2023, to file a complete and proper second amended complaint to cure all the deficiencies discussed in the order dated December 30, 2022.

IT IS SO ORDERED.

DATED: This 27th day of January, 2023, at Kansas City, Kansas.

S/ John W. Lungstrum

JOHN W. LUNGSTRUM
United States District Judge