

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DUSTYN POLK,

Plaintiff,

v.

GARY BUNTING; KELVIN BELLINGER;
and VINCENT GONZALEZ,

Defendants.

Case No. 23-2415-JWL

MEMORANDUM AND ORDER

Plaintiff, a detainee at the Douglas County Correctional Facility (DCCF) in Douglas County, Kansas, filed this action *pro se* against three officers at DCCF in which he claims violations of federal and Kansas law with respect to his religious practices. By Memorandum and Order of January 29, 2024, the Court granted in part and denied in part defendants' motion to dismiss. *See Polk v. Bunting*, 2024 WL 326459 (D. Kan. Jan. 29, 2024). Specifically, the Court ruled that plaintiff's first claim (relating to religious texts) survived against defendants in their individual capacities, but it dismissed the claim as asserted against defendants in their official capacities, while allowing plaintiff to amend to cure that pleading deficiency; the Court dismissed plaintiff's second and third claims (music for prayer, pagan meal trays) without granting leave to amend; and the Court dismissed the fourth claim (religious holiday meals), but did grant leave to amend. *See id.* The present deadline for any amended complaint is April 1, 2024.

Plaintiff has now filed a document that the Court is interpreting as a motion for clarification (Doc. # 24), which motion the Court **grants**, to the extent that it clarifies its order as follows, in answer to plaintiff's question. The amended complaint will indeed supersede the original petition that was filed in state court. The amended complaint does not start the case over, but it is part of the continuation of the same case that was originally filed. That case was removed from state court to this federal Court, where the case will remain. The amended complaint and all future filings must be filed in this Court.

IT IS SO ORDERED.

Dated this 15th day of March, 2024, in Kansas City, Kansas.

/s/ John W. Lungstrum
Hon. John W. Lungstrum
United States District Judge