

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

**JEFFREY L. MCLEMORE,**

**Plaintiff,**

**v.**

**CASE NO. 23-3217-JWL**

**(FNU) SNYDER, et al.,**

**Defendants.**

**MEMORANDUM AND ORDER**

Plaintiff brings this pro se civil rights action under 42 U.S.C. § 1983. Plaintiff is in custody at the Saline County Jail in Salina, Kansas (“SCJ”). The Court granted Plaintiff leave to proceed in forma pauperis. (Doc. 4.) The Court screened Plaintiff’s Amended Complaint (Doc. 6) and entered a Memorandum and Order to Show Cause (Doc. 8) (“MOSC”) advising Plaintiff that it may be prohibited from hearing Plaintiff’s claims regarding his state court proceedings under *Younger v. Harris*, 401 U.S. 37, 45 (1971). The Court found in the MOSC that Plaintiff’s claims relate to his state criminal proceedings in Saline County, Kansas. *See State v. McLemore*, Case No. 2022-CR-558, filed June 29, 2022 (District Court of Saline County, Kansas). On October 27, 2023, the Court entered a Memorandum and Order (Doc. 11) staying this case pending further order of the Court and directing Plaintiff to notify the Court as soon as his state criminal proceedings have concluded.

This matter is before the Court on Plaintiff’s response (Doc. 12) indicating that his state criminal proceedings in Case No. 2022-CR-558 have concluded, with the case being dismissed around February 23, 2024. Plaintiff indicates that he would like to move forward with this case

and would like to reinstate his request for injunctive relief and motion for leave to file a supplemental complaint.

The Court will grant Plaintiff an opportunity to file a complete and proper second amended complaint upon court-approved forms. To add claims, significant factual allegations, or change defendants, a plaintiff must submit a complete amended complaint. *See* Fed. R. Civ. P. 15. An amended complaint is not simply an addendum to the original complaint, and instead completely supersedes it. Therefore, any claims or allegations not included in the amended complaint are no longer before the court. It follows that a plaintiff may not simply refer to an earlier pleading, and the amended complaint must contain all allegations and claims that a plaintiff intends to pursue in the action, including those to be retained from the original complaint. Plaintiff must write the number of this case (23-3217-JWL) at the top of the first page of his second amended complaint and he must name every defendant in the caption of the second amended complaint. *See* Fed. R. Civ. P. 10(a). Plaintiff should also refer to each defendant again in the body of the second amended complaint, where he must allege facts describing the unconstitutional acts taken by each defendant including dates, locations, and circumstances. Plaintiff must allege sufficient additional facts to show a federal constitutional violation.

In filing his second amended complaint, Plaintiff should keep in mind the deficiencies pointed out in the Court's MOSC regarding prosecutorial immunity. Plaintiff is given time to file a complete and proper second amended complaint in which he (1) raises only properly joined claims and defendants; (2) alleges sufficient facts to state a claim for a federal constitutional violation and show a cause of action in federal court; and (3) alleges sufficient facts to show personal participation by each named defendant.

If Plaintiff does not file an amended complaint within the prescribed time that cures all the deficiencies discussed herein, this matter will be decided based upon the current deficient Amended Complaint and may be dismissed without further notice.

**IT IS THEREFORE ORDERED BY THE COURT** that the stay in this case is **lifted**.

**IT IS FURTHER ORDERED** that Plaintiff is granted until **April 8, 2024**, in which to file a complete and proper second amended complaint to cure all the deficiencies discussed in the Court's MOSC at Doc. 8.

The Clerk is directed to send § 1983 forms and instructions to Plaintiff.

**IT IS SO ORDERED.**

**Dated March 11, 2024, in Kansas City, Kansas.**

**S/ John W. Lungstrum**  
**JOHN W. LUNGSTRUM**  
**UNITED STATES DISTRICT JUDGE**