

United States Court of Appeals
For the Eighth Circuit

No. 17-3246

L'Keith Antwan Irving

Plaintiff - Appellant

v.

Corporal Heath Dickson; Officer Chris Bruno

Defendants - Appellees

Appeal from United States District Court
for the Western District of Arkansas - Hot Springs

Submitted: February 13, 2018

Filed: March 2, 2018

[Unpublished]

Before GRUENDER, MURPHY, and KELLY, Circuit Judges.

PER CURIAM.

In this 42 U.S.C. § 1983 action, L'Keith Irving appeals after the district court--in light of a then-pending proceeding in state court--dismissed Irving's complaint preservice and without prejudice, based on abstention under Younger v. Harris, 401 U.S. 37 (1971). Irving also moves in this court for leave to amend his complaint.

Upon careful review, we conclude that the dismissal based on Younger was improper. See Norwood v. Dickey, 409 F.3d 901, 903 (8th Cir. 2005) (abuse-of-discretion standard of review); cf. Yamaha Motor Corp., U.S.A. v. Riney, 21 F.3d 793, 797 (8th Cir. 1994) (necessary predicate for Younger dismissal is the opportunity to raise and have timely decided by competent state tribunal the federal issues involved). We thus vacate the dismissal order and remand this case to the district court for further proceedings. We also deny Irving's motion seeking this court's permission to amend his complaint.
