

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

GARRY D. GIBBS, )  
Plaintiff, )  
v. )  
CITY OF NEW MADRID, et al., )  
Defendants. )  
No. 1:15CV88 RLW

## **MEMORANDUM AND ORDER**

This matter is before the Court on *pro se* Plaintiff's Amended Complaint (ECF No. 49).

The Amended Complaint, which raises claims under 42 U.S.C. § 1983, adds Missouri State Troopers D.L. DeJournett and C.L. Purnellff,<sup>1</sup> who were previously unknown to Plaintiff.

The Court notes that the Amended Complaint seeks monetary damages against these officers, as well as Officers Ricky Rhoades, Dave Simmons, and Anthony Roberts, in their official, not individual, capacities. However, Plaintiff “cannot pursue damages claims against state employees in their official capacities.” *Roberts v. Lombardi*, 512 Fed. App’x 645, 647 (8th Cir. 2013); *see also Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 & n. 10 (1989) (state officials acting in their official capacities are not persons under § 1983 in a suit for damages).

Therefore, the Court will order the Plaintiff to file a Third Amended Complaint<sup>2</sup> naming Defendants Rhoades, Simmons, Roberts, DeJournett, and Purnell in their individual capacities.

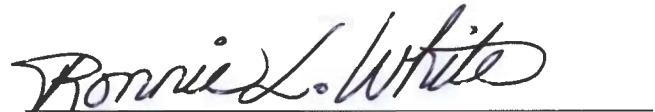
Accordingly,

<sup>1</sup> The letter attached to Plaintiff's Amended Complaint indicates that the correct spelling of this Officer's last name is "Purnell." (ECF No. 33-1)

<sup>2</sup> The record shows that Plaintiff filed his original Complaint on May 20, 2015 and a First Amended Complaint on March 24, 2017. The Court granted Plaintiff leave to file a Second Amended Complaint, which was filed on July 7, 2017. (ECF Nos. 1, 13, 49)

**IT IS HEREBY ORDERED** that Plaintiff shall file a Third Amended Complaint consistent with this Memorandum and Order no later than July 24, 2017. Failure to comply with this Order may result in dismissal without further proceedings.

Dated this 10th day of July, 2017.



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RONNIE L. WHITE  
UNITED STATES DISTRICT JUDGE