UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

WILLIE WILLIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:15CV168 JAR
	)	
JAMES MULCAHY,	)	
	)	
Defendant.	)	

MEMORANDUM AND ORDER

Plaintiff, a prisoner, seeks leave to proceed in forma pauperis in this civil action under 42 U.S.C. § 1983. Having reviewed plaintiff's financial information, the Court assesses a partial initial filing fee of $1.00.

Standard of Review

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief under § 1983, a complaint must plead more than "legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a "mere possibility of misconduct." Id. at 679. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Id. at 678. Determining whether a complaint states a plausible claim for relief [is] a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. Id. at 679.

The Complaint

Plaintiff is an inmate at the Cape Girardeau County Jail. He sues defendants in their official capacities only. He says he has an infection in his jaw that requires surgery. He claims defendants refused to take him to get surgery because they are "too cheap."

Discussion

Plaintiff did not specify whether he is suing defendants in their official or individual capacities. Where a "complaint is silent about the capacity in which [plaintiff] is suing defendant, [a district court must] interpret the complaint as including only official-capacity claims." Egerdahl v. Hibbing Community College, 72 F.3d 615, 619 (8th Cir. 1995); Nix v. Norman, 879 F.2d 429, 431 (8th Cir. 1989). Naming a government official in his or her official capacity is the equivalent of naming the government entity that employs the official. Will v. *Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989). To state a claim against a municipality or a government official in his or her official capacity, plaintiff must allege that a policy or custom of the government entity is responsible for the alleged constitutional violation. Monell v. *Dep't of Social Services*, 436 U.S. 658, 690-91 (1978). The instant complaint does not contain any allegations that a policy or custom of a government entity was responsible for the alleged violations of plaintiff's constitutional rights. As a result, the complaint fails to state a claim upon which relief can be granted.

Because plaintiff is proceeding pro se, the Court will allow plaintiff to file an amended complaint. Plaintiff has thirty days from the date of this Order to do so. **Plaintiff is warned that the filing of an amended complaint replaces the original complaint, and so he must include each and every one of his claims in the amended complaint**. E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation, 396 F.3d 922, 928 (8th Cir. 2005). **Any**

claims from the original complaint that are not included in the amended complaint will be considered abandoned. Id. **Plaintiff must allege how each and every defendant is directly responsible for the alleged harm. In order to sue defendants in their individual capacities, plaintiff must specifically say so in the complaint**. If plaintiff fails to follow the instructions in this paragraph, the Court may dismiss the complaint.

Accordingly,

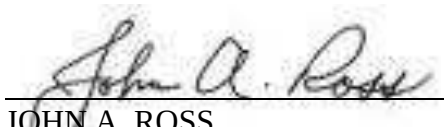
IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [ECF No. 4] is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff must pay an initial filing fee of $1.00 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that the Clerk is directed to send plaintiff a prisoner civil rights complaint form.

IT IS FURTHER ORDERED that plaintiff must submit a second amended complaint within thirty (30) days from the date of this Order. The second amended complaint must comply with the instructions above. If plaintiff fails to comply with this Order, the Court will dismiss this case without further proceedings.

Dated this 9th day of October, 2015.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE