

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

DWIGHT M. MOODY,)	
)	
Plaintiff,)	
)	
v.)	No. 1:21-CV-55-SNLJ
)	
SECC DEPARTMENT OF CORRECTIONS,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court upon its own motion. On April 12, 2021, self-represented plaintiff Dwight Moody filed a letter with the Court complaining about conditions at Southeast Correctional Center (“SECC”) in Charleston, Missouri. ECF No. 1. On the following day, the Court issued an Order finding plaintiff’s letter defective as a complaint commencing a civil case because it was not drafted on a Court-provided form and it had not been signed. ECF No. 2 (citing E.D. Mo. Local Rules 2.01(A)(1) & 2.06(A); Fed. R. Civ. P. 11). In addition, the Court noted that plaintiff had neither paid the filing fee nor submitted an application to proceed without prepaying fees or costs. As such, the Court directed the Clerk to send plaintiff the necessary forms and ordered that plaintiff file a signed, amended complaint on the Court-provided form within thirty (30) days. Plaintiff was also given thirty (30) days to either pay the full filing fee or submit the Court-provided application to proceed without prepaying fees or costs. Plaintiff was warned that failure to comply with the Court’s Order could result in dismissal of this action.

On April 14th and 22nd, plaintiff filed two additional letters with the Court. ECF Nos. 3-4. In the first letter, plaintiff explains that he has had no schooling and he needs assistance understanding his “legal rights as a prisoner.” ECF No. 3 at 1. Plaintiff complains that he is suffering poor treatment at SECC, including inadequate medical treatment for his psoriasis and being beat up by the

prison guards. *Id.* at 1-2. He asks that the Court call him at SECC or call the SECC Warden and ask the Warden to speak with plaintiff. *Id.* at 2.

In his second letter, plaintiff informs the Court that the case caption and named defendant in this matter are incorrect. ECF No. 4 at 1. Plaintiff explains that he has “a lot of problems with the medical staff” at SECC and again asks for the Court’s help with understanding his rights. *Id.* at 2. He attaches documents to this second letter, including communications with the medical records clerk concerning copies of test results, and health service request forms concerning shampoo, creams, and a COVID-19 vaccination. *Id.* at 3-10.

The Court ordered plaintiff to file an amended complaint and to either pay the full filing fee or file an application to proceed without prepayment. Plaintiff’s response was due to the Court by May 13, 2021. To date, plaintiff has neither complied with the Court’s Order, nor sought additional time to do so. Local Rule 2.01(B) authorizes the Clerk of Court to refuse to receive any pleadings “until the applicable statutory fee is paid, except in cases accompanied by a completed application to proceed in forma pauperis.” However, because plaintiff is self-represented, the Court will give him one more opportunity to comply with the Court’s Order.

The Court will again direct the Clerk of Court to send plaintiff the necessary forms. The Court cannot call plaintiff at SECC; communication with the Court should be in writing. Although plaintiff states that he is “slow” with little education and an inability to “read big words,” the Court finds plaintiff’s written filings to be understandable and coherent. ECF No. 4 at 1-2. Plaintiff does not need to cite legal statutes or cases in the filing of his amended complaint, he just needs to follow the form’s directions and provide the Court with the facts underlying his claims. If plaintiff wants to change the named defendants in this matter, he simply needs to put the appropriate defendants on his amended complaint form.

Plaintiff is warned that the amended complaint will completely replace all previously filed pleadings, so plaintiff must include each and every one of the claims that he wishes to pursue in the amended complaint. *See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). Any claims from the other pleadings that are not included in the amended complaint will be deemed abandoned and will not be considered. *Id.*

In the “Statement of Claim” section, plaintiff should begin by writing the first defendant’s name. In separate, numbered paragraphs under that name, plaintiff should set forth the specific factual allegations supporting his claim or claims against that defendant. Plaintiff should only include claims that arise out of the same transaction or occurrence, or simply put, claims that are related to each other. If plaintiff is suing more than one defendant, he should proceed in the same manner with each one, separately writing each individual defendant’s name and, under that name, in numbered paragraphs, the allegations specific to that particular defendant. Plaintiff’s failure to make specific and actionable allegations against any defendant will result in that defendant’s dismissal from this case.

Plaintiff’s amended complaint should be on the Court-provided form – not a handwritten letter addressed to the Court. In order for this case to proceed, plaintiff must pay the full filing fee or file the Court-provided application to proceed in district court without prepayment of fees or costs. If plaintiff fails to comply with this Order within thirty (30) days, the Court will dismiss this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail plaintiff a copy of the Court’s ‘Prisoner Civil Rights Complaint’ form.

IT IS FURTHER ORDERED that the Clerk is directed to mail plaintiff a copy of the Court’s

‘Application to Proceed in District Court without Prepaying Fees or Costs’ form.

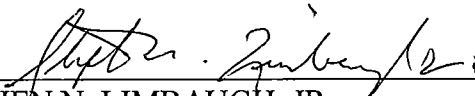
IT IS FURTHER ORDERED that plaintiff shall file a signed amended complaint on the Court-provided form within **thirty (30) days** of the date of this Order. Plaintiff is advised that his amended complaint will take the place of all previous filings and will be the only pleading that this Court will review.

IT IS FURTHER ORDERED that plaintiff must either pay the \$402 filing fee or submit an application to proceed without prepaying fees or costs within **thirty (30) days** of the date of this Order.

IT IS FURTHER ORDERED that, if plaintiff chooses to submit an application to proceed without prepaying fees or costs and plaintiff maintains a prison account at SECC, he shall file a certified copy of his prison account statement for the six-month period immediately preceding the filing of the case, within **thirty (30) days** of the date of this Order.

IT IS FINALLY ORDERED that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice.

Dated this 7th day of June, 2021.


STEPHEN N. LIMBAUGH, JR.
SENIOR UNITED STATES DISTRICT JUDGE