

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

JAMES WILSON,)
Plaintiff,)
v.)
BRETT FERGUSON,)
Defendant.)
No. 4:15-CV-1635-JCH

MEMORANDUM AND ORDER

This matter is before the Court on review of plaintiff's pro se complaint [Doc. 1]. It is unclear to the Court who the intended defendants are in this action, and precisely what plaintiff's claims are against each intended defendant. Moreover, plaintiff has failed to allege the capacity in which he is suing defendant(s). Because plaintiff is proceeding pro se, the Court will instruct him to file an amended complaint on a Court form in accordance with the instructions set forth below. If plaintiff fails to comply with the Court's order, this action will be dismissed without prejudice and without further notice.

All claims in an action must be included in one, centralized complaint form, as neither the Court nor defendants wish to search through supplemental and prior pleadings in order to piece together plaintiff's claims. **As such, plaintiff is warned that the filing of an amended complaint replaces the original complaint and all**

previously-filed pleadings, supplements, and attachments thereto, and therefore, he must include each and every one of the claims he wishes to pursue in the amended complaint. *See, e.g., In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005). **Any claims from the original complaint, supplements, and/or pleadings that are not included in the amended complaint will be deemed abandoned and will not be considered.** *Id.* Plaintiff is advised that the amended complaint will replace the original complaint and will be the only pleading this Court reviews. *Id.* If plaintiff wishes to sue defendants in their individual capacities, plaintiff must specifically say so in the amended complaint. Plaintiff should not attach any exhibits to the amended complaint; all claims should be clearly set forth in the "Statement of Claim."

In addition, in the "Caption" of the amended complaint, plaintiff shall set forth the name of each defendant he wishes to sue; and in the "Statement of Claim," plaintiff shall start by typing the first defendant's name, and under that name, he shall set forth in separate numbered paragraphs the specific allegations supporting his claim(s) as to that particular defendant, as well as the right(s) that he claims that particular defendant violated and the capacity in which the defendant is being sued. Plaintiff seems to asserting an Eighth Amendment claim for delaying his brain surgery, and thus, he should provide the dates and relevant facts relative to his

medical requests and the medical services and/or treatments rendered, or the denial thereof, if they are known or available to him. Plaintiff shall proceed in this manner with each named defendant, *separately* setting forth each individual name and under that name, in numbered paragraphs, the allegations specific to that particular defendant, the right(s) that he claims that particular defendant violated, and the capacity in which the defendant is being sued. The amended complaint must contain short and plain statements showing that plaintiff is entitled to relief, the allegations must be simple, concise, and direct, and the numbered paragraphs must each be limited to a single set of circumstances. If plaintiff needs more space, he may attach additional sheets of paper to the amended complaint and identify them as part of the "Caption" or "Statement of Claim"; however, as previously stated, plaintiff shall not attach any exhibits to the pleading. Plaintiff shall sign the amended complaint.

Plaintiff is reminded that he is required to submit his amended complaint on a Court-provided form, and it must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure. Plaintiff's failure to make specific and actionable allegations against any of defendant(s) will result in that individual's dismissal from this case.¹

¹The Court will review plaintiff's amended complaint pursuant to 28 U.S.C. § 1915. A claim and/or defendant must survive § 1915 review in order for plaintiff to proceed in this lawsuit.

If plaintiff fails to comply with the Court's instructions, this action will be dismissed without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that, **on or before November 30, 2015**, plaintiff shall file an amended complaint on a Court-provided form, in accordance with the instructions set forth above.

IT IS FURTHER ORDERED that the Clerk shall mail plaintiff a copy of the Court's form "Motion to Proceed in Forma Pauperis - Prisoner Cases" and a form prisoner complaint for filing a civil rights action.

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

Dated this 30th day of October, 2015.

\s\ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE