

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL E. FLOURNOY,

Plaintiff,

v.

ORDER

14-cv-528-jdp

WINNEBAGO COUNTY SHERIFF'S OFFICE,
ROBERT BOB BAUDELIO JUANEZ,
LARRY MARINO, DANIEL FREEDLUND,
PETER DALPRA, JOSEPH BOOMER,
BRAD KISER, IASPARRO DOMINC,
CUNNINGHAM NICK, JULIE DODD,
NEAL C. GRUHN, WAYNE JACKOWSKI,
CRAIG SMITH, ADAM KING,
JOHN D. RICHARDSON, and DAN IVANCICH,

Defendants.

Pro se prisoner Michael Flournoy filed a proposed complaint under 42 U.S.C. § 1983 in which he alleged that defendants violated his Fourth and Fourteenth amendment rights during an investigation, arrest, and prosecution in Illinois state court. Specifically, plaintiff alleged that officers lacked probable cause to arrest him on July 30, 2012, after he was caught participating in a controlled drug buy.

On January 22, 2015, I screened plaintiff's complaint and dismissed it pursuant to Federal Rule of Civil Procedure 8, because plaintiff failed to provide a short and plain statement of a claim for unlawful arrest. Dkt. 11. But I afforded plaintiff an opportunity to amend his complaint, and I directed him to "at least minimally articulate[] why he believes that the officers lacked probable cause to arrest him." *Id.* at 6-7. I further directed plaintiff to "allege how defendants' [probable cause] reports are inaccurate, or what specific facts the reports misconstrue." *Id.* at 7. I gave plaintiff until February 15, 2015, to file an amended complaint, and I warned him that if he failed to meet this deadline, I would dismiss his case for failure to

state a claim upon which relief can be granted. *Id.* I also noted several foundational problems with plaintiff's complaint: (1) lack of personal jurisdiction over defendants; (2) improper venue; and (3) absolute prosecutorial immunity. *Id.* at 6.

In response to the screening order, plaintiff has filed a "motion to reconsider," in which he asks the court to reconsider whether his complaint states a claim. In the alternative, plaintiff asks the court to grant him additional time to amend his complaint. Dkt. 12. Although plaintiff's motion alleges additional facts, most of them are not relevant to the issues presented in this case. For example, plaintiff states that under the full faith and credit clause of the Constitution, an Illinois state court's dismissal of charges against him should have barred the federal government from prosecuting him for the same underlying conduct.¹ None of plaintiff's additional allegations respond to the direction I gave him in the screening order. I will therefore deny plaintiff's motion to reconsider the screening order.

As to plaintiff's request for more time, his motion alleges that plaintiff does not have enough access to the law library to complete an amended complaint before February 15, 2015. Plaintiff requests an additional 30 days to file his amended complaint. I will grant plaintiff's request, but I will extend the deadline by only 14 days. Plaintiff's amended complaint must focus on the issues of *this case*. Specifically, plaintiff's amended complaint must at least articulate why he believes that the officers lacked probable cause to arrest him on July 30, 2012. Plaintiff must also allege how defendants' probable cause reports and other accounts of the controlled buy are inaccurate, or what specific facts the reports misconstrue. If plaintiff does not file an

¹ This issue is the subject of a separate complaint that plaintiff filed in this court. *See Flournoy v. McKenzie*, No. 14-cv-554 (W.D. Wis. filed Aug. 11, 2014). In that case, I screened plaintiff's complaint and dismissed it for failure to state a claim upon which relief can be granted. As I explained in the screening order, the full faith and credit clause did not prevent the federal government from prosecuting plaintiff despite the fact that the state court dismissed the charges against him.

amended complaint on or before the now-extended deadline in this order, I will dismiss his case for failure to state a claim upon which relief can be granted.

IT IS ORDERED that:

1. Plaintiff Michael Flournoy's motion for reconsideration, Dkt. 12, is DENIED.
2. Plaintiff's motion for additional time to file an amended complaint, Dkt. 12, is GRANTED in part. Plaintiff may have until March 2, 2015, to file an amended complaint.
3. If plaintiff fails to timely amend his complaint, the court will dismiss this action with prejudice, for failure to state a claim upon which relief can be granted.

Entered February 6, 2015.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge