

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ROBERT ROCK  
GUNN,

Plaintiff,

v.

CASE NO. 10-3218-SAC

DR. SANJAY  
KHICHA, et al.,

Defendants.

O R D E R

On December 3, 2010, this court screened the pro se complaint filed herein, and found no facts were alleged showing state action on the part of any defendant. The court granted plaintiff time to show cause why this action should not be dismissed due to the lack of state action. Plaintiff was forewarned that if he failed to make a sufficient showing within the time allotted, this action could be dismissed without further notice.

Plaintiff has filed a "Petition of Response to Order." Having considered this Response together with all materials in the file, the court finds as follows. In his Response, plaintiff merely realleges his claims that defendants violated an agreement and duty to protect, exhibited deliberate indifference, placed him in imminent danger, and subjected him to cruel and unusual punishment. While plaintiff again makes completely conclusory allegations of a conspiracy, he also again alleges no facts whatsoever to support such a claim despite being advised that he must do so. Plaintiff's citations to Kansas statutes and claims of negligence as well as violations of other responsibilities or protocols of private

hospitals and their employees are not sufficient to state a claim of federal constitutional violation. Questions of state law are matters for the state courts. Accordingly, for the reasons stated herein and in the court's Order of December 3, 2010, the court finds that plaintiff has failed to state facts showing any state action on the part of the named defendants. The court concludes that this action must be dismissed as a result.

**IT IS THEREFORE BY THE COURT ORDERED** that this action is dismissed and all relief is denied for failure to state a claim cognizable in federal court under 42 U.S.C. § 1983.

**IT IS SO ORDERED.**

Dated this 18<sup>th</sup> day of January, 2011, at Topeka, Kansas.

s/Sam A. Crow  
U. S. Senior District Judge