

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JOHN ROBERT PRINE,

Plaintiff,

v.

CASE NO. 17-3128-SAC-DJW

KEITH SCHROEDER,

Defendant.

MEMORANDUM AND ORDER

This matter is a civil action filed by a prisoner in state custody. Plaintiff proceeds pro se and in forma pauperis.

By an order entered on August 8, 2017, U.S. Magistrate Judge Waxse directed plaintiff to show cause on or before September 5, 2017, why this matter should not be dismissed for failure to state a claim for relief. Plaintiff seeks damages from the District Attorney of Reno County, Kansas, due to his failure to respond to discovery requests made by plaintiff in an action in state court. Magistrate Judge Waxse found that plaintiff identified no ground for federal relief, noting that the state district courts manage discovery in state court actions and may impose sanctions. See K.S.A. 60-237. Likewise, Magistrate Judge Waxse rejected plaintiff's attempt to characterize this matter as an action brought under diversity jurisdiction. See generally, *McEntire v. Kmart Corp.*, 2010 WL 553443, at *3 (D.N.M. Feb. 9, 2010) ("[t]he Supreme Court of the United States has described th[e] statutory diversity requirement as 'complete diversity,' and it is present only when no party on one side of a dispute shares citizenship with any party on the other side of a dispute.")

Although plaintiff filed his complaint on official forms, as directed by the clerk of the court, on September 1, 2017, he has not responded to the order to show cause, and the refiled complaint suffers from the same defects identified in the order to show cause.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed for failure to state a claim for relief.

IT IS FURTHER ORDERED collection action shall continue under 28 U.S.C. § 1915(b) (2) until plaintiff satisfies the \$350.00 filing fee.

IT IS SO ORDERED.

DATED: This 22nd day of September, 2017, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge