

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

PAUL LAWRENCE BARNETT,

Plaintiff,

v.

CASE NO. 18-3220-SAC

DAN SCHNURR, et al.,

Defendants.

MEMORANDUM AND ORDER

Plaintiff brings this *pro se* civil rights action under 42 U.S.C. § 1983. On October 5, 2018, the Court entered a Memorandum and Order and Order to Show Cause (“MOSC”) (Doc. 5) directing Plaintiff to show cause by October 26, 2018, why his Complaint should not be dismissed for the reasons set forth in the MOSC.

Although Plaintiff is currently housed at the El Dorado Correctional Facility in El Dorado, Kansas (“EDCF”), the events giving rise to his Complaint occurred during his confinement at the Hutchinson Correctional Facility in Hutchinson, Kansas (“HCF”). Plaintiff alleges that while housed at HCF he was not protected from inmate gang members who “ordered a hit” on him. He claims that although he was placed in protective custody, these inmates were still poisoning his food and making him sick. Plaintiff’s request for relief seeks transfer to safer conditions.

The Court found in the MOSC that: Plaintiff’s Complaint is subject to dismissal without prejudice based on his failure to exhaust available administrative remedies before filing this action; and to the extent Plaintiff seeks injunctive relief, his claims are moot and should be dismissed under 28 U.S.C. § 1915A(b) because Plaintiff cannot state a plausible claim for relief. Plaintiff

has failed to respond to the MOSC by the Court's deadline. The Court finds that Plaintiff's Complaint should be dismissed for the reasons set forth in the MOSC.

IT IS THEREFORE ORDERED BY THE COURT that this action is **dismissed without prejudice** for failure to exhaust administrative remedies.

IT IS FURTHER ORDERED that Plaintiff's pending motions (Docs. 2, 3) are **denied as moot**.

IT IS SO ORDERED.

Dated in Topeka, Kansas, on this 2nd day of November, 2018.

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