

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

MICHAEL WALLE,

Plaintiff,

v.

CASE NO. 19-3185-SAC

(FNU) MAIN, et al.,

Defendants.

ORDER OF DISMISSAL

This matter is a civil rights action filed under 42 U.S.C. § 1983 by a person held at the Saline County Jail. On October 8, 2019, the Court issued a Notice and Order to Show Cause (NOSC) directing plaintiff to show cause on or before November 8, 2019, why this matter should not be dismissed for failure to state a claim for relief. Plaintiff was advised that the failure to respond might result in the dismissal of this matter without additional notice.

There has been no response to the NOSC, and the Court concludes this matter may be dismissed for the reason set out in that order, namely, that plaintiff's claims sound in negligence and do not state a claim for relief under the Eighth Amendment. *See Kingsley v. Hendrickson*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 2466, 2472 (2015) (stating, where pretrial detainee alleged use of excessive force, "liability for negligently inflicted harm is categorically beneath the threshold of constitutional due process", citing *County of Sacramento v. Lewis*, 523 U.S. 833, 849 (1998)).

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

**IT IS SO ORDERED.**

DATED: This 15th day of November, 2019, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge