

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

**JOSHUA H. FAIRBANKS,**

**Plaintiff,**

**v.**

**CASE NO. 20-3084-SAC**

**JOSE A. LOPEZ,  
et al.,**

**Defendants.**

**MEMORANDUM AND ORDER**

Plaintiff brings this *pro se* civil rights complaint under 42 U.S.C. § 1983. Plaintiff is incarcerated at the El Dorado Correctional Facility in El Dorado, Kansas (“EDCF”). The Court granted Plaintiff leave to proceed *in forma pauperis*. (Doc. 6.) On July 17, 2020, the Court entered a Memorandum and Order and Order to Show Cause (Doc. 8) (“MOSC”), granting Plaintiff until August 17, 2020, in which to show good cause why his Complaint should not be dismissed or to file an amended complaint to cure the deficiencies set forth in the MOSC. Plaintiff has failed to respond by the Court’s deadline and has failed to show good cause why his Complaint should not be dismissed for the reasons set forth in the MOSC.

Plaintiff alleges that he experienced a delay in receiving dental care. In the MOSC, the Court found that Plaintiff failed to show that any defendant was deliberately indifferent regarding his medical care. Plaintiff failed to show that Defendants disregarded an excessive risk to his health or safety or that they were both aware of facts from which the inference could be drawn that a substantial risk of serious harm existed, and also drew the inference. The Court found that Plaintiff’s claims suggest, at most, negligence, and must be brought in state court.

Plaintiff has failed to respond to the MOSC by the Court's deadline. Plaintiff has failed to show good cause why his Complaint should not be dismissed for the reasons set forth in the MOSC.

**IT IS THEREFORE ORDERED** that this matter is **dismissed** for failure to state a claim.

**IT IS SO ORDERED.**

**Dated August 19, 2020, in Topeka, Kansas.**

**S/ Sam A. Crow**  
**SAM A. CROW**  
**SENIOR U. S. DISTRICT JUDGE**