

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

WILLIAM C. CHEATHAM,

Plaintiff,

v.

CASE NO. 21-3153-SAC

ANDREW DEDEKE, et al.,

Defendants.

ORDER

Plaintiff filed this *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff is a pre-trial detainee confined at the Leavenworth County Jail in Leavenworth, Kansas. The Court granted Plaintiff leave to proceed *in forma pauperis*.

Plaintiff's Complaint (ECF No. 1) alleges he has not received any mental health care while at the Leavenworth County Jail in spite of a history of mental health issues, previous treatment at the Larned State Hospital, and repeated requests. Plaintiff asserts this lack of mental health care violates his constitutional rights.

Plaintiff names as defendants Andrew Dedeke, Sheriff of Leavenworth County, and Eric Thorne, Jail Commander. He seeks \$6.5 million in damages.

The Court conducted an initial screening of the Complaint and finds that the proper processing of Plaintiff's claims cannot be achieved without additional information from appropriate officials of Leavenworth County Jail. *See Martinez v. Aaron*, 570 F.2d 317 (10th Cir. 1978); *see also Hall v. Bellmon*, 935 F.2d 1106 (10th Cir. 1991). Accordingly, the Court orders the appropriate officials of the Leavenworth County Jail to prepare and file a *Martinez* Report. Once the report has been received, the Court can properly screen Plaintiff's claims under 28 U.S.C. § 1915.

Also before the Court are three motions filed by Plaintiff. Two are motions to supplement the Complaint (Motion to Supplement Complaint (ECF No. 3); Motion to Supplement Complaint (ECF No. 6)) and are granted. The third is a Motion for Order (ECF No. 5) regarding the commissary listing. This motion pertains to another case filed by Mr. Cheatham and is not relevant to this matter. Therefore, it is denied.

IT IS THEREFORE ORDERED BY THE COURT that Plaintiff's Motion to Supplement Complaint (ECF No. 3) and Motion to Supplement Complaint (ECF No. 6)) are **granted**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Order (ECF No. 5) is **denied**.

IT IS FURTHER ORDERED that:

- (1) the clerk of the court shall prepare a waiver of service form for Defendants pursuant to Rule 4(d) of the Federal Rules of Civil Procedure, to be served upon Defendants at no cost to Plaintiff. The report required herein shall be filed no later than sixty (60) days from the date of this order, unless the time is extended by the Court. The answer or other responsive pleading shall be filed thirty (30) days after the *Martinez* report is filed.
- (2) Officials responsible for the operation of the Leavenworth County Jail are directed to undertake a review of the subject matter of the Complaint:
 - a. To ascertain the facts and circumstances;
 - b. To consider whether any action can and should be taken by the institution to resolve the subject matter of the Complaint; and
 - c. To determine whether other like complaints, whether pending in this Court or elsewhere, are related to this Complaint and should be considered together.

- (3) Upon completion of the review, a written report shall be compiled which shall be filed with the Court and served on Plaintiff. The officials preparing the report must seek leave of the Court if they wish to file certain exhibits or portions of the report under seal or without service on Plaintiff. Statements of all witnesses shall be in affidavit form. Copies of pertinent rules, regulations, official documents, and, wherever appropriate, the reports of medical or psychiatric examinations shall be included in the written report. Any recordings related to Plaintiff's claims shall also be included.
- (4) Authorization is granted to the officials of the Leavenworth County Jail to interview all witnesses having knowledge of the facts, including Plaintiff.
- (5) No answer or motion addressed to the Complaint shall be filed until the *Martinez* Report required herein has been prepared.
- (6) Discovery by Plaintiff shall not commence until Plaintiff has received and reviewed Defendant's answer or response to the Complaint and the report ordered herein. This action is exempted from the requirements imposed under Fed. R. Civ. P. 26(a) and 26(f).

Copies of this order shall be transmitted to Plaintiff, to Defendant, and to the Leavenworth County Attorney.

IT IS SO ORDERED.

Dated October 5, 2021, in Topeka, Kansas.

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